UNITED
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21 August 1996

ORIGINAL: ENGLISH

LETTER DATED 20 AUGUST 1996 FROM THE CHARGE D'AFFAIRES A.I. OF THE PERMANENT MISSION OF THE ISLAMIC REPUBLIC OF IRAN TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

Upon instructions from my Government, I have the honour to transmit a copy of two notes verbales with attachments dated 31 July 1996, from the Interests Section of the Islamic Republic of Iran in Washington, D.C. to the Embassy of Pakistan to be forwarded to the United States Department of State on the violation of territory of the Islamic Republic of Iran by the forces of the United States in the Persian Gulf region.

It would be highly appreciated if the present letter were circulated as a document of the Security Council.

(Signed) Majid TAKHT-RAVANCHI
Ambassador
Chargé d'Affaires a.i.

96-21432 (E) 220896 230896

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Annex I

Note verbale dated 31 July 1996 from the Interests Section of the Islamic Republic of Iran in Washington, D.C. addressed to the Embassy of Pakistan in Washington, D.C.

The Interests Section of the Islamic Republic of Iran in Washington, D.C. presents its compliments to the Embassy of Pakistan and has the honour to quote the attached message in two copies, the original text and an unofficial translation, received from the Ministry of Foreign Affairs of the Islamic Republic of Iran. It is respectfully requested that the original text be transmitted to the United States Department of State and our office be informed of their response.

Appendix

According to information received from officials of the Government of the Islamic Republic of Iran:

1. On 7 April 1996, a United States frigate named YENDOR60GFFSIWADM at the position of N2852 and E5022 violated the territorial waters of the Islamic Republic of Iran and fled the region after receiving warning.

2. On 18 April 1996, at 1400 hours, a United States warship at the position of N2905 and E5015 created a nuisance for Iranian helicopter AB-212.

The Government of the Islamic Republic of Iran protests these illegal measures by the United States Government and calls for an end to such actions.

Annex II

Note verbale dated 31 July 1996 from the Interests Section of the Islamic Republic of Iran in Washington, D.C. addressed to the Embassy of Pakistan in Washington, D.C.

The Interests Section of the Islamic Republic of Iran in Washington, D.C. presents its compliments to the Embassy of Pakistan and has the honour to quote the attached message in two copies, the original text and an unofficial translation, received from the Ministry of Foreign Affairs of the Islamic Republic of Iran. It is respectfully requested that the original text be transmitted to the United States Department of State and our office be informed of their response.

Appendix

According to information received from officials of the Government of the Islamic Republic of Iran:

On 9 April 1996, a United States helicopter at the position of N2829 and E4921 flew over a tugboat belonging to Port Police and Bander-e-Emam, and questioned the tugboat regarding its origin and destination.

The Government of the Islamic Republic of Iran protests these illegal measures by the United States Government and calls for an end to such actions.

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S/1996/681
22 August 1996

ORIGINAL: ENGLISH

LETTER DATED 22 AUGUST 1996 FROM THE PERMANENT REPRESENTATIVES OF PORTUGAL, THE RUSSIAN FEDERATION AND THE UNITED STATES OF AMERICA TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

We have the honour to attach a statement by the observer States of the Angolan peace process dated 22 August 1996.

We kindly request that the present letter and its annex be circulated as a document of the Security Council.

(Signed) Pedro CATARINO
Ambassador
Permanent Representative
of Portugal
to the United Nations

(Signed) Sergey LAVROV
Ambassador
Permanent Representative
of the Russian Federation
to the United Nations

(Signed) Madeleine ALBRIGHT
Ambassador
Permanent Representative
of the United States of America
to the United Nations

96-21539 (E) 230896 240896

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Annex

Troika statement on Angola, dated 22 August 1996

The observer States of the Angolan peace process have reviewed the recent progress in the implementation of the Lusaka Protocol by the Government of Angola and the Uniaõ Nacional para a Indepêndencia Total de Angola (UNITA). While welcoming the real accomplishments of both sides in advancing the peace process, they note with concern that no progress has been made in the past two months on several issues necessary for the process to succeed.

The observer States welcome the announced meeting inside Angola between President José Eduardo dos Santos and Dr. Jonas Savimbi before the end of August, and express the firm hope that these issues will be resolved during that meeting, if not earlier.

Of particular concern is the failure of UNITA to fulfil its public commitment to sent its 10 senior generals to Luanda to begin the process of military integration as described by the Lusaka Protocol. The observers recognize that questions have been raised concerning the duties the generals will exercise and their personal security within Luanda. However, the observers believe that the conditions are now adequate for this key step to be taken and believe that the remaining concerns can be best resolved once the process of general officer integration has begun. Their arrival in Luanda must not be delayed any further.

The observer States note with satisfaction the progress made by both parties in resolving the issues of the selection process of other officers and enlisted personnel into the Angolan Armed Forces. Concrete movement towards integration must now occur. The process of UNITA quartering and disarmament, including the collection of heavy weapons, is close to completion and should be brought to conclusion in coming days. Peace will not truly be at hand until a unified national army is formed, and the observers encourage this process to move forward expeditiously. The observer States remain concerned that delays in military integration have been a factor in the postponement of the formation of a government of national unity.

Once the UNITA generals have arrived in Luanda, there must be no further impediment to the formation of a government of national unity. The observers call on both President dos Santos and Dr. Savimbi to settle any outstanding issues, including the issue of Dr. Savimbi's status, at their upcoming meeting, and to begin the formation of a unified government within 14 days of that meeting. The observer States and the international community will welcome this important step and will ensure that the new government receives encouragement at its inception and support in the coming months.

The observer States recall that annex 6, section II, paragraph 6, of the Lusaka Protocol states that the President of UNITA "shall be guaranteed a special status". While allowing that the nature of Dr. Savimbi's special status can only be negotiated by the two parties, the observers urge that this issue be quickly resolved. A strong government of national unity is an essential step

towards national reconciliation and economic progress, ensuring the participation of UNITA in the political process in Angola.

The observers recall the necessity of providing conditions for the unobstructed delivery of humanitarian assistance throughout Angola, and the free movement of persons and goods throughout the country. In this context, the observers unreservedly condemn the continuing obstruction of roads, interference with humanitarian workers, and the obstruction of mine-removal activities.

The observer States encourage the Government of Angola to continue and intensify its efforts to collect weapons from the population as required by the Lusaka Protocol. The continuing presence of large amounts of arms among the civilian population increases the scale of criminal activity and needs to be dealt with if civil society is to be rebuilt.

The observer States of the Angolan peace process reaffirm their commitment to ensure that the Lusaka Protocol is implemented fairly and rigorously. They note that the peace process is at a crucial moment and expect that the parties will make the necessary positive contributions to its success. They call upon the Government of Angola and UNITA, which is holding its party congress at this time, to work towards these goals. They commend United Nations Special Representative Mr. Alioune Blondin Beye's outstanding efforts. They also express the hope that sufficient funding and means will be made available by the international community to allow the United Nations agencies to implement critical demobilization and reintegration programmes that are necessary for the implementation of the Lusaka Protocol to be completed.

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S/1996/682
22 August 1996

ORIGINAL: ENGLIS

LETTER DATED 25 JULY 1996 FROM THE SECRETARY-GENERAL
ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to refer to Security Council resolution 1012 (1995), of 28 August 1995, in which the Council requested the Secretary-General to establish an international commission of inquiry concerning the assassination o the President of Burundi on 21 October 1993 and the massacres that followed.

The members of the Security Council will recall that on 5 January 1996 I submitted an interim report on the work of the Commission (S/1996/8).

On 23 July 1996, the Chairman of the Commission, accompanied by the three remaining Commissioners and the Commission's Executive Secretary, delivered to me the Commission's final report. I enclose the text of the report.

(Signed) Boutros BOUTROS-GHAL

96-21571 (E) 230896 260896

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PART I: INTRODUCTION

I. CREATION OF THE COMMISSION

1. On 28 August 1995 the Security Council approved Resolution 1012 with the following operative paragraphs:

"The Security Council

1. Requests the Secretary-General to establish, as a matter of urgency, an international commission of inquiry, with the following mandate:

a) To establish the facts relating to the assassination of the President of Burundi on 21 October 1993, the massacres and other related serious acts of violence which followed;

b) To recommend measures of a legal, political and administrative nature, as appropriate, after consultation with the Government of Burundi, and measures with regard to the bringing to justice of persons responsible for those acts, to prevent any repetition of deeds similar to those investigated by the commission and, in general, to eradicate impunity and promote national reconciliation in Burundi;

2. Recommends that the international commission of inquiry be composed of five impartial and internationally respected, experienced jurists who shall be selected by the Secretary-General and shall be furnished with adequate expert staff, and that the Government of Burundi be duly informed;

3. Calls upon States, relevant United Nations bodies and, as appropriate, international humanitarian organizations to collate substantiated information in their possession relating to acts covered in paragraph 1 (a) above, to make such information available as soon as possible and to provide appropriate assistance to the commission of inquiry;

4. Requests the Secretary-General to report to the Council on the establishment of the commission of inquiry, and further requests the Secretary-General, within three months from the establishment of the commission of inquiry, to submit an interim report to the Council on the work of the commission and to submit a final report when the commission completes its work;

5. Calls upon the Burundi authorities and institutions, including all Burundi political parties, to fully cooperate with the international commission of inquiry in the accomplishment of its mandate, including responding positively to requests from the commission for security, assistance and access in pursuing investigations, including:

a) Adoption by the Government of Burundi of any measures needed for the commission and its personnel to carry out their functions throughout the national territory with full freedom, independence and security;

b) Provision by the Government of Burundi of all information in its possession which the commission requests or is otherwise needed to carry out its mandate and free access for the commission and its staff to any official archives related to its mandate;

c) Freedom for the commission to obtain any information the commission considers relevant and to use all sources of information which the commission considers useful and reliable;

d) Freedom for the commission to interview, in private, any persons the commission judges necessary;

e) Freedom for the commission to visit any establishment or place at any time;

f) Guarantee by the Government of Burundi of full respect for the integrity, security and freedom of witnesses, experts and any other persons who help the commission in its work;

6. Calls upon all States to cooperate with the commission in facilitating its investigations;

7. Requests the Secretary-General to provide adequate security for the commission in cooperation with the Government of Burundi;

8. Requests the Secretary-General to establish, as a supplement to financing as an expense of the Organization, a trust fund to receive voluntary contributions to finance the commission of inquiry;

9. Urges States and intergovernmental and non-governmental organizations to contribute funds, equipment and services to the commission of inquiry including the offer of expert personnel in support of the implementation of this resolution;

10. Decides to remain actively seized of the matter."

2. In accordance with Resolution 1012, the Secretary General appointed an International Commission of Inquiry for Burundi, on 20 September 1993, consisting of the following jurists:

Edilbert RAZAFINDRALAMBO (Madagascar), Chairman
Abdelali EL MOUMNI (Morocco)
Mehmet GÜNEY (Turkey)
Luis HERRERA MARCANO (Venezuela)
Michel MAURICE (Canada).

3. Two United Nations missions preceded the Commission to Burundi: in March 1994, following the 21 October 1993 coup attempt in Burundi that resulted in the assassination of President Melchior Ndadaye and widespread massacres and other acts of violence throughout that country, the Secretary-General, in response to a request from the Government of Burundi and in compliance with a Note (S/26757) from the President of the Security Council, sent a preparatory fact-finding mission, for which he designated Ambassadors Martin Huslid and Simeon Aké. The report of this mission (S/1995/157) was made public on 24 February 1995. On 26 June 1995, responding to a formal request by the Government of Burundi that the United Nations set up a judiciary commission of inquiry, the Secretary-General sent Mr. Pedro Nikken to Burundi to discuss the manner in which such a Commission should be established. The report submitted by Mr. Nikken (S/1995/631) contained recommendations regarding the creation of the Commission and its mandate.

4. The Commission held its first meetings in Geneva on 25-27 October 1995.

II. THE COMMISSION'S MANDATE

5. The following distinct matters were comprised by the Commission's mandate, as set forth in Security Council Resolution 1012:

a) "To establish the facts relating to the assassination of the President of Burundi on 21 October 1993".

b) "To establish the facts relating to ... the massacres and other related serious acts of violence which followed (the assassination of the President of Burundi on 21 October 1993)"

c) "To recommend ... measures with regard to the bringing to justice of persons responsible for those acts..."

d) "To recommend measures of a legal, political or administrative nature, as appropriate, after consultation with the Government of Burundi, ... to prevent any repetition of deeds similar to those investigated by the Commission and, in general, to eradicate impunity and promote national reconciliation in Burundi."

III. GENERAL METHODOLOGY

6. Although the Government of Burundi had requested a judicial commission of inquiry, the Commission was given no judicial powers: it had a fact-finding mission regarding the crimes mentioned above and wide discretion to make recommendations. Even so, as it stated in its Preliminary Report, the Commission decided to conform its fact-finding activities, insofar as possible, to judicial standards, not only to give its eventual conclusions a solid base, but also in order to amass evidence that could be of use for any later judicial action.

7. To this effect, the Commission adopted Rules of Procedure (Annex 1) regarding its internal procedures as well as rules regarding the hearing of testimony.

8. Regarding testimony, witnesses were heard under oath in the presence of at least one Commissioner, and their testimony was recorded on tape and later transcribed. Testimony in Kirundi was interpreted by two sworn interpreters, one for each main ethnic group, who did the transcription themselves. In the relatively few cases in which, due to conditions in the field, only one interpreter was used, a second interpreter of the other ethnic group always participated in the transcription. Witnesses were always heard singly and in private.

9. With respect to the assassination, the investigation sought to determine facts that would not merely point to the immediate authors of the crime, but that could establish whether it was ordered from above and, if so, had been planned in advance as part of the attempted coup d'Etat. It did, however, not seek to investigate the coup d'Etat as such, as it was not included in its mandate.

10. With respect to the massacres and other related serious acts of violence, it was patently impossible to undertake an investigation of each of the thousands of incidents that took place or to attempt to identify each of the tens - if not hundreds - of thousands of direct authors. The Commission, therefore, had to circumscribe its investigation to a limited number of communes that were selected, within the constraints imposed by the security situation, on the basis of being representative of the events

that took place throughout the country. The Commission could not hope, even in these limited areas, to conduct a detailed investigation of every incident in order to establish the responsibility of the individuals involved in each case. Rather, it sought to establish the nature, the scope and, if possible, the pattern of the crimes, and whether they had been planned in advance and ordered or tolerated from above.

11. The Commission sought to proceed with complete impartiality, with no preconceived ideas, and hear as far as possible all sides in each case. To this end, it endeavored to analyze and verify accusations made by various organizations, without in any way limiting its action to such accusations, and, in spite of considerable difficulties and risks, to hear witnesses from different parties and ethnic groups, civilian and military, in Bujumbura and in the interior, in prisons, camps for displaced persons and out in the collines. Having no power to compel witnesses to appear before it, it was reduced to hearing such witnesses as were willing to come forth. In the case of prisoners, it had to rely on the cooperation of judicial authorities, which it received in all cases. Regarding military witnesses, it had to summon them through the Ministry of Defense, with unsatisfactory results.

12. With respect to written evidence, the Commission had no powers of direct inspection of files and records or to compel authorities or private persons to exhibit documents. Official records relevant to the inquiry had to be requested from the civilian or military authorities. Court and prosecution records were opened to Commission inspection. They were for the most part in Kirundi, and could neither be copied nor independently translated by the Commission. Notes were taken of oral summaries made by judges or prosecutors. Military records were requested through the Ministry of Defense, with no success.

13. With a view to the preparation of recommendations, the Commission sought to hear as wide a range as possible of officials, political leaders, businessmen and representatives of foreign governments and international organizations, both governmental and non-governmental. In accordance with Resolution 1012, it consulted with the President, the Prime Minister and members of the Cabinet and the President of the National Assembly.

IV. ACTIVITIES OF THE COMMISSION

14. The Commission's work comprised two periods: a first period, from 25 October to 20 December 1995, which resulted in the submission of a Preliminary Report, as required by Resolution 1012, and a second period, from 7 January to 22 July 1996, which concluded with the submission of this Report.

A. 1995

15. The members of the Commission met for the first time in Geneva, from 25 to 27 October 1995. The Commission analyzed its mandate, discussed its procedures, planned its work and was briefed on the situation in Burundi by an Assistant Secretary-General for Political Affairs and by security officers of the Secretariat and of the Office of the High Commissioner for Refugees.

16. The Commission arrived in Bujumbura on 29 October 1995. It was received by an officer of the Political Department of the Secretariat who had been sent to Bujumbura to secure offices for the Commission, and by a staff consisting of nine persons, selected by Headquarters, that included a political affairs officer, a legal officer, and supporting personnel for security and administration. The administrative officer arrived some days later while the Executive Secretary, appointed after consultation

with the Commission, arrived on 14 November. The Commission worked at first at the hotel where it resided, until its offices could be made operational.

17. The Commission paid courtesy visits to members of the Government and other high officials of the Assemblée Nationale and the administration and gathered information on the situation in Burundi, as well as other background information relevant to its mandate, in meetings with representatives of various sectors of public life in Burundi. To this effect, it met with members of political parties, religious leaders and local non-governmental organizations, in particular of the two main human rights organizations ITEKA and SONERA. Further information was obtained in meetings with representatives of foreign countries and international organizations, including representatives of various specialized agencies of the United Nations.

18. The Commission issued a public notice, which was diffused by the local media, stating its mandate and inviting all interested persons to provide information, as well as a circular letter to the same effect.

19. During the first period of inquiry in Burundi, the Commission received testimony from sworn witnesses regarding the assassination of President Ndadaye and the massacres and other related serious acts of violence that followed. Through the "Procureur général de la République" of Bujumbura (Attorney General of the Republic), it arranged to have brought to its offices to testify some of the persons accused of having taken part in the assassination who were in prison. The Commission also received the testimony of some key witnesses such as Mrs. Laurence Ndadaye, widow of the late President of the Republic, Mr. Sylvestre Ntibantunganya, President of the Republic, who had been Minister of Foreign Affairs and Cooperation at the time of those events, and Colonel Jean Bikomagu, then and now Chief of the General Staff of the Army.

20. In two visits to the interior of the country, members of the Commission visited the Provinces of Muramvya and Gitega, where they met the respective Governors, gathered relevant information and heard persons in the prisons and camps for displaced persons.

21. The Commission undertook the study of the judicial system in Burundi. To this end, members of the Commission and its staff met, among others, the Deputy Dean of the Law Faculty of the University of Bujumbura, the Chief Inspector of the Judicial Police, the Director of the National Center for Human Rights, the head of the Bar Association; the Representative of the High Commissioner for Refugees, and members of the Bar.

22. On 6 December, gunfire erupted around the offices of the Commission, situated in an outlying district of Bujumbura, forcing the evacuation of the Commission and its staff from the premises. The offices could not be used thereafter, due to security conditions in the area, so that the Commission had again to function at the hotel, without adequate facilities.

23. On 14 December 1995, the Commission met at Headquarters in New York to prepare its Preliminary Report. There, it met with the Secretary-General, the Head and other members of the Department of Political Affairs, the Head and members of the Office of Legal Affairs, the UN Security Coordinator and members of his staff, and with representatives of Member States. The Commission submitted its Preliminary Report to the Secretary-General on 20 December 1995. The Report contained the Commission's interpretation of its mandate, an account of work accomplished to that date, and a description of difficulties it was encountering in trying to accomplish its mandate due to the situation of

ethnic confrontation and insecurity in Burundi and the lack of human and material resources at its disposal.

24. The Commission was given assurances that all efforts would be made to provide it with adequate human and material resources.

B. 1996

25. The Commission resumed its work in Burundi on 8 January 1996. Until 6 February, when a new office could be made operational, the Commission functioned at the hotel.

26. The Commission chose two provinces, Gitega and Muramvya, to begin field work on the investigation of massacres and other serious acts of violence. Towards the end of February, the investigation was extended to the Province of Ngozi and early March also to the Province of Kirundo. Work in Kirundo had to be suspended shortly after it had begun due to the insufficiency of human resources.

27. The Commission assigned specific responsibilities to its various members. Two members were assigned responsibility for the investigation of the assassination as well as for events in the Province of Gitega, one member was assigned to investigate events in the Province of Muramvya, while the remaining two members undertook the remaining work, which included receiving documents, information and testimony submitted in response to the Commission's public invitation. This initial distribution of responsibilities was modified several times in the following months, as indicated in various parts of this Report.

28. Members of the Commission met several times with the Attorney General of the Republic to gain access to prisoners and judicial records.

29. The Commission requested, in November 1995, a meeting with the Defense Minister in order to gain access to military files and records and military witnesses. It was received only on 23 January 1996, after repeated requests. Although direct access to files and records was not obtained, the Minister appointed a Liaison Officer to transmit requests for military witnesses to appear before the Commission. As reported elsewhere, the cooperation of the Ministry of Defense was highly unsatisfactory.

30. The Commission heard 61 military witnesses, including prisoners. Some of them were heard twice. Some prisoners who appeared before the Commission declined to testify. The following officers, having been summoned by the Commission, failed to appear:

Col. Laurent NIYONKURU
Col. Pascal NTAKO
Lt. Col. Lucien RUFYIRI
Lt. Col. Ascension TWAGIRAMUNGU
Adj. Major MBONAYO
Lt. Valentin HATUGIMANA
Lt. NTARATAZA
Corp. HAVUGIYAREMYE
Corp. NDUWAYO
Private KANTUNGEKO

31. A member of the Commission travelled to Headquarters at New York to examine the relevant material that had been gathered by the Aké/Huslid fact-finding mission, which could not be sent to Burundi for security reasons. While in New York, he also received relevant material from the inquiry conducted in 1994 by the "Fédération Internationale des Ligues des Droits de l'Homme". On his return trip, he heard two military witnesses, and the judge who had directed the investigation into President Ndadaye's assassination for the afore mentioned inquiry.

32. Two members of the Commission traveled to Uganda to hear eight important military witnesses in Kampala. Another member heard an important civilian witness in Abidjan (Côte d'Ivoire).

33. In the course of its investigation, the Commission heard in all 667 witnesses.

34. Field work had to be begun by the Commissioners without the assistance of investigators. The first two investigators arrived in Burundi on 12 March 1996. Another five arrived in the following weeks. Field work for the investigation in the provinces was carried out through missions of one or more days. The scope and nature of this work is reported in the appropriate places in this Report. In total, Commissioners spent 30 working days in Muramvya, 21 in Ngozi, 20 in Gitega and 3 in Kirundo. At other times, the investigators worked in the field alone.

35. In the course of its work, the Commission, apart from occasional meetings with the Special Representative of the Secretary-General and the Resident Representative of the United Nations Development Program, who was designated official for security of UN personnel in Burundi, met with the following officials from the United Nations system: the UN High Commissioner for Refugees, who visited Burundi, the Special Rapporteur of the Human Rights Commission for Burundi, the members of the UN Commission of Inquiry concerning arms traffic in Rwanda, the Representative in Burundi of the High Commissioner for Human Rights and UN Human Rights Observers.

36. The Commission also met with the following representatives of member States: The National Security Adviser to the President of the United States, the United States Assistant Secretary of State for Human Rights, the Permanent Representative of the United States to the United Nations, the Special Coordinator of the United States for Rwanda and Burundi, the Chargé d'affaires of the United States in Burundi, the Director of USAID for Rwanda and Burundi, the Ambassador of Sweden, two representatives from the High Commissioner of South Africa in Nairobi, and a delegation from the ACP group of countries.

37. The Commission maintained close contact and cooperation with the Special Representative of the Secretary-General of the Organization of African Unity for Burundi and with the Head of the International Observers Mission of that organization in Burundi.

38. As was required by the Commission's mandate, the President of the Commission, assisted by the political and legal advisers, carried out consultations with the President of the Republic, the Prime Minister, the Ministers of Foreign Affairs, Justice, Defense and of Human Rights, the Attorney General of the Republic, the President of the Supreme Court, the President of the Constitutional Court and the President of the National Assembly concerning recommendations relating to legal, political and administrative measures. The Minister of the Interior could not find time to meet with the Commission.

39. Commissioner Güney resigned from the Commission on 16 May 1996, for reasons of a personal nature.

40. Before leaving the country, the President of the Commission paid courtesy visits to the President of the Republic, the Prime Minister and other ministers, to diplomatic representatives and to representatives of international organizations.

V. DIFFICULTIES IN THE COMMISSION'S WORK

41. The Commission faced considerable difficulties in accomplishing its mandate. Among the most serious were:

A. The time elapsed since the events under investigation

42. By the time of the Commission's arrival in Burundi, over two years had elapsed since the events that were to be investigated. In that period of upheaval, many actors, witnesses and survivors of the events were displaced, became refugees, or died, often violently. Those that could be heard had had time to tell their stories many times over, sometimes in the course of official or unofficial investigations, and introduce modifications or embellishments. Memory of events had dimmed, leading to confusions regarding names, times and places. Evidence had been lost, suppressed or altered. Events in the country had further affected the objectivity of witnesses.

B. Ethnic polarization in Burundi

43. Since 1993, ethnic confrontation between Tutsis and Hutus has grown in intensity. Members of each "ethnic" group feel that they are collectively engaged in a death struggle against extermination or subjection. This situation fosters feelings of "ethnic loyalty", that leads most members of a group to conceal, or justify as defensive, any action, however atrocious, done by members of their own group, to exaggerate or even invent atrocities committed by members of the opposing group, and to condemn objectivity or moderation as traitorous. In such a climate, it is extremely difficult to obtain reliable testimony.

44. At this point, the Commission wishes to emphasize that it uses, in conformity with general usage in Burundi, the terms "ethnic", "Hutu" and "Tutsi", but that it does so with great reluctance, and only because to do otherwise would make its report incomprehensible. This usage should in no way be interpreted as an indication that the Commission believes that there are racial or cultural differences between the members of these two groups. It is an inescapable fact, however, that the overwhelming majority of Burundians consider themselves, and are considered by others, to belong to one or the other of these groups.

C. The security situation in Burundi

45. The present security situation in Burundi was perhaps the greatest challenge encountered by the Commission.

a) Security in Bujumbura

46. Curfew is in effect in Bujumbura from 9 p.m. to 5 a.m. At the time of the Commission's arrival, most Hutu residents had been forced out of the city by Tutsi militants and the security forces. Some Hutus still reside in upper income and in predominantly muslim quarters, other Hutus come into the city during the day to work or bring produce to markets. Gunfire and the explosion of grenades are common

occurrences during the night hours, as is the assassination of individuals in broad daylight. Armed car theft is frequent, often affecting international organizations.

47. Although, due to the practically mono-ethnic present composition of the city and tight control by the security forces, there were no ethnic clashes within the city during the Commission's stay, strikes and demonstrations by Tutsis in several instances confined the Commission and its staff to their residence, at one time for periods of several days. Fortunately, due to the strict observance of security rules, neither the Commission nor its staff suffered any personal harm.

48. When the Commission first arrived in Bujumbura, offices had already been rented for it by United Nations staff in Mutanga-Nord, one of the remaining bi-ethnic upper income residential quarters in the outskirts of the city. Insecurity precluded work in the office after nightfall. On 6 December, intense firing from small firearms and armored car cannons broke out all around the house occupied by the Commission's office, and went on for over two hours, and was later reported as an operation by security forces against armed rebel infiltrators. After that incident, security considerations prevented further use of the office. From that time, until new offices were rented in the center, the Commission had to work in the Hotel Source du Nil, where it resided together with its international staff.

49. Both the hotel and the offices were guarded by a detachment of the Burundian Gendarmerie, which is a militarized corps under Army command. While the conduct and cooperation of these Gendarmes was at all times beyond reproach, their mere armed and uniformed presence constituted in itself a deterrent to the access of Hutu witnesses.

50. One of the greatest worries of the Commission was its inability to secure adequate confidentiality for its work and its files, since testimony could subject a witness to very real and immediate risks of lethal reprisals. Until 6 January 1996, only three United Nations security guards were assigned to the Commission. They could barely secure personal and residential security, so that the offices remained unguarded at night. It was only in April, when the number of United Nations security guards had risen to eight, that a 24 hour watch could be established at the office.

51. The Commission could at no time obtain means to detect electronic listening devices.

b) Security in the interior

52. If the Commission and its staff had conformed to established security rules generally applicable to United Nations personnel in Burundi, they would at no time have left Bujumbura. The entire country is the scene of armed confrontation between guerilla and the Army and attacks on civilians by both sides. Incidents are reported almost daily in the interior and around the capital. Attacks are carried out against international organizations, several of whose staff have been killed or wounded. Attacks on vehicles by common criminals are not infrequent. Members of the Commission and its staff in at least two occasions actually witnessed cannon firing. On several occasions, they saw vehicles riddled by gunfire by the side of the roads. Main roads were several times closed to traffic, interrupting the Commission's work.

53. The level of guerilla activity and Army repression excluded the possibility of carrying out investigation in provinces such as Karuzi and those bordering on Zaire or Tanzania. Even in the provinces the Commission selected, armed incidents never ceased, particularly in northern Gitega and Muramvya. As a result of a particularly serious guerilla attack in the Province of Gitega and the repression that followed, investigation in that province had to be suspended for over two weeks. For the greater part of the Commission's stay Bugendana, one of the Communes of Gitega under investigation,

was inaccessible. In Ruhororo, in the Province of Ngozi, the Commission could go as far as the "Chef-lieu", but was advised not to leave the main road.

54. Apart from the personal risks involved, the security situation made contact with rural Hutu witnesses particularly difficult, since they were extremely wary of the indispensable Gendarmerie escort accompanying Commission teams.

D. Inadequacy of resources

55. When the Commission arrived in Bujumbura after its first two-day meeting and briefing in Geneva, neither its Chairman or any of its members had the opportunity to discuss plans, personnel or material resources at Headquarters. Its entire staff consisted of two advisers previously appointed by Headquarters, three administrative employees, a Security Coordinator and three security guards. Offices had been rented but were unfurnished. Its Administrative Officer arrived on 31 October. Its Executive Secretary, appointed with the Commission's approval, arrived on 14 November.

56. As stated in its Preliminary Report, when the Commission met at Headquarters in December 1995, it was given assurances that up to 10 trained investigators were to be provided to assist it with its work, starting in January. The first two investigators arrived on 12 March, and five others in the course of the following five weeks. A 7th investigator arrived on 28 April, 33 days before the Commission's departure from Bujumbura on 31 May, so that at its highest, the number of persons engaged in substantive work on the investigation, counting the Commissioners themselves, was fifteen.

57. The timely transcription of taped testimony posed an unsurmountable problem. The conduct of the investigation required the analysis and discussion of testimony, and this could not satisfactorily be accomplished by the use of recordings and necessarily abridged notes. To protect confidentiality, no Burundians could be employed in the transcription of testimony, except for the interpreters, who were given the additional task of transcribing testimony which they had interpreted themselves. Since they could only work on this when not occupied with interpreting or absent in the field, the backlog kept mounting. Transcription of testimony given in French could only be entrusted to available international personnel, who had to do other office work as well, and that consisted of two persons until 8 March, when a third transcriber joined the staff. Three more transcribers arrived in the course of the following five weeks.

58. By the time the Commission left Burundi, testimony of only about a third of the 667 witnesses had been transcribed. Transcription work went on in Bujumbura and New York while the Commission discussed and drafted its final Report, but testimony from about one hundred fifty witnesses remained untranscribed by the time this Report was submitted.

59. Lack of adequate material resources constantly hindered or limited the Commission's work in the field in many other ways, too numerous to detail.

VI. ACKNOWLEDGMENTS

60. The Commission wishes to acknowledge with gratitude the support it received from the following Governments: Belgium, Canada, Denmark, Ireland, Netherlands, Norway, Spain, Sweden, Switzerland, United Kingdom and the United States of America. This support was in the nature of

financial contributions to the Trust Fund[1], personnel to assist the Commission[2], and general support of the Commission's investigation.

61. The Commission also wishes to acknowledge the invaluable support and cooperation of the military observation mission MIOB of the Organization of African Unity in Burundi during the conduct of its investigation in the interior of the country, to which specific reference is made elsewhere in the Report.

62. The Commission gratefully acknowledges the contributions of many international and national non-governmental organizations and informal groupings which have provided information and other support to the Commission. The United Kingdom based organization International Alert deserves particular mention in this context.

63. The Commission especially commends the dedication and courage shown by the members of its staff, both international and Burundian. Particular mention must be made of its Executive Secretary, Ms. Judith Schmidt (Switzerland), for her invaluable contribution to the Commission's work.

VII. DOCUMENTS AND RECORDINGS

64. The body of evidence obtained by the Commission, consisting of documents and recordings, was given into the custody of the Secretary-General of the United Nations.

PART II: BACKGROUND

I. GEOGRAPHICAL SUMMARY OF BURUNDI

65. Burundi borders on the north with Rwanda, on the east and south with Tanzania and on the west with Zaire, across the Rusizi River in the north and Lake Tanganyika in the south. With an extension of 26,000 square kilometers it is one of the smallest countries in Africa. Access to the Indian Ocean, 1,200 kilometers distant, is effected by a combination of transportation by ship on Lake Tanganyika and railroad through Tanzania or by road transportation through Rwanda, Uganda and Kenya.

66. Burundi is composed of the following natural regions: in the west a plain on the western bank of the Rusizi River known as Imbo, and a narrow strip of varying breadth on the eastern shore of Lake Tanganyika, with an altitude of about 800 meters above sea level and limiting on the east with a chain of

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[1] The financial contributions received were as follows: Ireland: USD 150,000.00; United Kingdom: USD 31,250.00; Norway: USD 49,983.00 (Norway made an additional amount available for communication equipment and users' fees); Spain: USD 10,000.00; Belgium: USD 336,553.64; Sweden: USD 73,784.40; Netherlands: USD 250,000.00; Denmark: USD 49,200.00; United States of America: USD 500,000.00.

[2] The following countries seconded personnel to the mission: Canada provided two investigators for the period of 12 to 28 March. The Netherlands provided two investigators, one for the period of 25 March to 31 May and the other one for the period of 5 April to 31 May. Switzerland provided the Executive Secretary of the mission for the period of 24 October 1995 to 31 July 1996, and a transcription secretary for the period of 14 April to 15 July 1996. The United States of America provided an investigator for the period of 28 April to 26 May and 7 days in June.

mountains which cross the country from north to south and divide the basins of the rivers Nile and Zaire. This chain is known as the Mugamba, while its western slopes are called the Mirwa. To the east of this chain lie the central highlands, in the general shape of a triangle with its apex to the south. The highlands have an altitude varying between 1,900 and 1,600 meters and consist entirely of hills, with steep sides, separated by marshy valleys. They cover about two thirds of the country and extend into Rwanda. They comprise the traditional regions of Bugesera, Bweru, Kirimino, Bututsi and Buyogoma. To the southeast the highlands end in an escarpment, followed by a strip of plain, the Kumoso, with an altitude of about 1,300 meters, extending into Tanzania.

II. POPULATION

67. The population of Burundi is estimated to be over six million inhabitants. The population density of around 250 people per square kilometer is the highest in Africa. In the central and northern parts of the central highlands the almost totally rural population averages over 400 inhabitants per square kilometer.

68. The annual rate of growth of the population is variously estimated between 2.5 and 3.5 percent. The population has almost tripled since independence in 1962, when it was estimated at 2,300,000.

69. The national language is Kirundi, spoken by all Burundians. French is also an official language, but only educated Burundians are proficient in it. The rural - as well as a large proportion of the urban - population speaks only Kirundi. Swahili is also spoken by many people in the cities.

70. Although there are no reliable data, it is estimated that about 85 percent of the population is Hutu, and 15 percent is Tutsi. A third group, the Twa, constitutes less than one percent. These groups are usually called "ethnic groups" although they share the same culture, history and language (a language of the Bantu family, Kirundi, almost identical to the one spoken in Rwanda), and cannot be distinguished with any accuracy, even by the Burundians themselves, through physical or other characteristics. A person belongs to the same ethnic group as his or her father. Intermarriage between Hutus and Tutsis has traditionally been common.

71. Nearly 95 percent of the population is rural. It is difficult to estimate the present population of the capital, Bujumbura. In 1993, it had around 250,000 inhabitants, about 80 percent of the total urban population of the country. The second largest town, Gitega, has around 15,000; the third, Ngozi, around 8,000. The other provincial capitals are hardly more than villages.

72. The rural population is dispersed, with each family living on its plot, so that, except for the lakeshore and the provincial capitals, there are practically no towns or villages.

III. ADMINISTRATIVE ORGANIZATION

73. Burundi is a parliamentary republic, with power shared by an elected President and a parliamentary Prime Minister. It is divided into 15 provinces, each under an appointed governor. Each province is divided into communes, under an "Administrateur communal", and each zone into "collines", under a "chef de colline". The administrative colline ("colline de recensement"), despite the name, does not necessarily correspond to a geographical hill. A colline may include two or more hills, which are then known as "sous-collines", or large proportions of level valley.

IV. ECONOMIC SUMMARY

74. In 1993, the gross national product of Burundi was estimated to be 230 billion Burundian francs (about 1.1 billion US dollars). Its per capita income, estimated at 180 US dollars, was one of the lowest in Africa. Its main export is coffee, of which in record years it managed to export around 40,000 tons. Coffee production is declining, due to internal troubles and overpopulation. The only other significant sources of foreign exchange are remittances by Burundians living outside the country, foreign aid and the local administrative expenses of foreign governments and international and non-governmental organizations. In 1993, the US dollar value of its exports was 67 million and that of its imports 211 million. Its external debt grew by 40 million to 1,064 million.

75. Agriculture provides about half of the gross national product, one of the highest proportions in the world. Most of the produce is used for the subsistence of the farmers themselves. The average extension of rural holdings, which was about 1.5 hectares at the time of independence in 1962, is now reduced to less that 0.80 hectares.

76. Except for the Imbo and the southern highlands, there are few extensive pastures. Cattle raising rarely constitutes the sole or even the main source of subsistence of a rural family.

77. Before the present crisis, industrial and mining activities, now severely depressed, provided less than a fifth of the gross national product.

V. HISTORICAL SUMMARY

78. Burundi was a unified, independent kingdom, occupying the central highlands, at the time of the German conquest in 1893. The royal caste, the Baganwa, was placed above both the Hutus and Tutsis and claimed to have a mixed ancestry. Under the King and other Baganwa, both Hutus and Tutsis exercised positions of power and prestige. There is no record of ethnic massacres from the pre-colonial period. Judicial authority was exercised by the King himself, by the local chiefs appointed by him, and by wise men designated by consensus on each hill, the Bashinganhaye.

79. During German colonial dominance, which ended in 1916, and during the Belgian mandate that followed, the country was governed formally through the King (indirect rule). In the last years of the mandate the King had become a mere figurehead. Colonial administration generally favored the Tutsis at the expense of the Hutus, accentuating the social and economic differences between them. The Belgians administered Burundi together with Rwanda from Bujumbura. Burundians and Rwandese were a minority of the population of Bujumbura until independence.

80. As the end of the mandate approached, Prince Louis Rwagasore, the King's eldest son, founded a multiethnic political party, the National Unity and Progress Party ("Union pour le progrès national"), UPRONA, along the lines of other African national liberation movements. The Belgian authorities promoted a competing, docile party, the "Parti démocratique chrétien", PDC, led by members of a rival branch of the royal family. In the national elections that were to lead to independence, UPRONA won an overwhelming victory. Shortly afterwards, Prince Rwagasore was assassinated at the instigation of PDC leaders. An UPRONA Tutsi Prime Minister, André Muhirwa, headed the first independent Government of Burundi, which became a constitutional monarchy.

81. To understand the post-independence political process in Burundi, it is necessary to be aware of the parallel process in its twin country, Rwanda. Both countries have the same culture, virtually the same language, and the same "ethnic" mix. They are roughly equivalent in size, in population and in geographical characteristics. In Rwanda, however, the royal family and the nobility were Tutsi. Tutsis had exercised for centuries the monopoly of power. Rwanda had been a unified, independent monarchy even longer than Burundi at the time of the German conquest.

82. To counter Tutsi pressure for independence on their terms, the Belgians favored a Hutu uprising in Rwanda in 1959, which led to a state of emergency and the effective end of Tutsi supremacy. Independence was granted in 1962 under an elected Hutu Government led by Grégoire Kayibanda. Tutsis lost all effective political power. In December of the following year, there was a massacre of some 20,000 Tutsis by Hutus, the first in recorded history, and great numbers went into exile. Persecution and exile of Tutsis continued during the years that followed. Most of these exiles went to Uganda, but a great number settled in Burundi and other countries.

83. In Burundi, the political struggle became increasingly ethnic. In 1965, parliamentary elections led to a greater than two thirds Hutu majority in Parliament, but the King, in the face of Tutsi opposition to the designation of a Hutu Prime Minister, appointed a member of the royal family instead. The same year, Hutu officers attempted a coup and a Hutu youth militia massacred Tutsi families in two localities in the Province of Muramvya. This first ethnic massacre made some 500 victims. The Army, under the command of Captain Michel Micombero, a Tutsi officer from the Hima clan from the Province of Bururi, carried out a bloody ethnic repression, sided by Tutsi militias. Several thousand Hutus were killed and most Hutus were purged from positions of power.

84. In 1966, Micombero overthrew the Monarchy and assumed absolute power. He filled the officer corps and the ranks of the Army with Tutsis of his same clan, a situation that persists to this day. UPRONA, the sole legal party, although retaining its bi-ethnic appearance, became a mere instrument of the military dictatorship.

85. In April 1972, Hutus trained outside the country carried out a massacre of several thousand Tutsi men, women and children in the region adjoining Lake Tanganyika in the south, while other armed groups attempted attacks in Bujumbura, Gitega and Cankuzo. The Micombero regime responded with a genocidal repression that is estimated to have caused over a hundred thousand victims and forced several hundred thousand Hutus into exile. Hutus with any degree of education who did not manage to flee into exile were systematically killed all through the country, down to high school students. The repression, which went on for months, was denounced at the United Nations by the Government of Rwanda. In that country persecution of Tutsis was intensified, and a coup the following year led to the military dictatorship of Juvénal Habyarimana, who was to rule until his death in 1994. His regime continued the pogroms against Tutsis, who continued to flee the country by the thousands.

86. In the aftermath of the repression in Burundi, Hutus were deprived of all effective political power, down to the local level. This situation did not change substantially under the dictatorship of Jean-Baptiste Bagaza, another Hima Tutsi officer who overthrew Micombero in 1976 and who, like him, led a one-party Government that drew support from the Eastern Block. However, no ethnic massacres took place under his rule.

87. Bagaza was in turn overthrown by yet another Hima Tutsi officer, Pierre Buyoya, in 1987. Except for its international political alignment, Buyoya's regime did not differ substantially at first from those of his predecessors. In 1988, Hutus massacred several hundred Tutsis in two northern communes

adjoining Rwanda, Ntega and Marangara, in what is now the northern Province of Kirundo. The repression by the Army was brutal and indiscriminate. Several thousand Hutus were killed and tens of thousands fled to Rwanda. International reaction to the repression led Buyoya to liberalize his regime and allow Hutu political participation without, however, modifying the one party system. A Hutu Prime Minister was appointed and a large proportion of Hutus occupied important posts, including those of cabinet minister and provincial governor.

88. In Rwanda, in 1990, an armed group consisting mainly of exiled Tutsis from Uganda, the Rwandese Patriotic Front, RPF, attempted an invasion. After the invasion was defeated with the aid of French, Belgian and Zairean troops, the RPF carried on an effective guerilla war in northern Rwanda, which led to their control of some territory, and to renewed persecution of Tutsis by the Habyarimana regime.

89. In Burundi, while the liberalization process was progressing, a clandestine Hutu party, the Party for the Liberation of the Hutu People, PALIPEHUTU, carried out an attack against Army posts and Tutsi civilians in the Provinces of Cibitoke, which borders both on Rwanda and Zaire, and in Bubanza and Bujumbura, which border on Zaire. Several hundred people were killed. The repression, in which hundreds if not thousands of Hutus died was, however, less indiscriminate than in the past.

90. This new episode of violence did not interrupt the process of ethnic reconciliation. With the encouragement and support of the Western countries, in the wave of democratization that followed the end of the Cold War, Buyoya allowed a free, multiparty electoral process that culminated in the elections of 1993. Educated Hutus that had survived the 1972 massacres and had spent years of exile in Rwanda, together with a small number of Tutsis, founded the "Front pour la démocratie au Burundi", FRODEBU, which was joined by a comparatively small number of Tutsis and soon drew support in the Hutu majority. The elections were won by the FRODEBU candidate, Melchior Ndadaye, a Hutu, with 65 percent of the votes. In the parliamentary elections that followed soon after, FRODEBU candidates obtained 71 percent of the vote. The composition of the resulting parliament was 69 Hutus, and 12 Tutsis, including eight belonging to FRODEBU, which won 65 of 81 seats.

91. While the electoral process was taking place in Burundi, in Rwanda, after a ceasefire agreed by the Government and the RPF in February, negotiations were taking place for the establishment of a bi-ethnic government of national unity.

VI. THE PRESIDENCY OF MELCHIOR NADADAYE

92. After an attempted coup by Army officers, on 3 July 1993, had been suppressed, Ndadaye was inaugurated on the tenth of that same month. He named an UPRONA Tutsi Prime Minister, Sylvie Kinigi, and gave one third of the Cabinet posts to UPRONA. Tutsis, from the FRODEBU as well as from UPRONA, held one third of Cabinet level posts. Two UPRONA provincial governors were appointed.

93. The three months of Ndadaye's presidency brought unprecedented harmony and prosperity to the country. Some processes, however, were sources of unrest:

a) The media often exercised their recently acquired freedom in an incendiary manner, with negative effects on a population unaccustomed to open debate.

b) Some contracts and concessions approved by the preceding Government were questioned, affecting powerful economic interests closely associated with the Tutsi elite and the Army.

c) At the commune and colline level, the takeover by new FRODEBU authorities was almost total throughout the country.

d) Thousands of Hutus that had gone into exile after 1972, began to return to the country and demand restitution of their land. Although President Ndadaye proposed their resettlement in outlying areas, in fact local authorities proceeded to many evictions. Given the characteristics of Burundi, evicted families found themselves with no means of subsistence.

e) Most important of all, changes were introduced in the military. The "Gendarmerie" or national police, a fully militarized body that was under the same command as the Army and has the same ethnic composition, was put under separate command. Changes were made in the requirements for admission to certain military and police training institutions, creating the fear in the Army that modifications would be made in the process of annual recruitment of soldiers, which was to take place in November, that might weaken or end Tutsi dominance.

94. A military coup took place in Bujumbura on Thursday, 21 October 1993, in the course of which President Ndadaye was assassinated. A detailed description of the events is made in the appropriate part of this Report.

VII. EVENTS AFTER THE ASSASSINATION

95. In the course of Thursday 21 October, the surviving members of the Government sought asylum in foreign embassies or went into hiding.

96. Around 2 p.m. of that day, a committee ("Comité de gestion de la crise") was formed at the headquarters of the Army. It was presided by François Ngeze, a Hutu member of the National Assembly belonging to UPRONA, who had been Minister of the Interior in the Buyoya Government, Lt. Col. Jean Bikomagu, Chief of the General Staff of the Army and two other lieutenant colonels, Pascal Simbanduku and Jean-Bosco Daradangwe. Lt. Col. Sylvestre Ningaba, who had been freed from prison, joined them later. This committee ordered military commanders in the provinces to replace and detain the Governors, placed the Gendarmerie again under Army command, and summoned political leaders and foreign diplomats to "discuss ways to manage the crisis". At 9 p.m., Ngeze, presenting himself as President of a non existent "Conseil national de salut public" announced measures taken to "manage the crisis", among them the replacement of the Governors.

97. News of the coup and of the President's captivity were broadcast by Radio Rwanda early in the morning of Thursday, 21 October. On the same day, through most of the country, trees were felled and bridges cut to bar the roads. In many places young and adult Tutsi males were gathered as hostages, as well as some UPRONA Hutus. In the evening, the killing of hostages began.

98. In the early evening, Radio Rwanda announced the death of President Ndadaye. Jean Minani, Burundian Minister of Health, who was at that time in Kigali, addressed the Burundian people through the same station, exhorting them to resist the coup.

99. On Friday and Saturday, while the committee attempted negotiations with the members of the Government that had taken refuge in the embassies, the killing of hostages went on and spread to the killing of entire Tutsi families, while the Army repressed the Hutus as it progressively unblocked the roads.

100. On the evening of Saturday 23, the reinstatement of the civilian Government was announced, and the next day the authorities, working together with both political parties and the Army, attempted to put an end to the carnage in the country. The Government operated at first from the offices of the French Embassy, and for a later period from a resort hotel. After prolonged negotiations, Cyprien Ntaryamira, a FRODEBU Hutu, was elected President by the Assembly and designated a Tutsi Prime Minister from UPRONA. Forty percent of Cabinet posts were filled with members of the opposition. Although comparative peace was maintained in the interior, violent ethnic clashes began in Bujumbura, which had been spared in the days following Ndadaye's assassination.

101. On 6 April 1994, President Ntaryamira was killed in an airplane crash in Kigali, together with President Habyarimana of Rwanda.

102. In Rwanda, a massive genocide of Tutsis took place, in which over half a million people perished. The FPR renewed its military offensive and occupied Kigali in July 1994. Over a million Hutus, including the members of the Army and armed militias who had participated in the genocide, crossed the border into Zaire.

103. In Burundi, the President of the Assembly, Sylvestre Ntibantunganya, a FRODEBU Hutu, became President, and continued the bi-partisan Government established by his predecessor. Negotiations between the parties went on with the encouragement of the United Nations, resulting in the adoption, on 10 September 1994, of a pact, the "Convention de Gouvernement", which provided for the exercise of shared power between the two main political parties for the rest of the presidential term.

104. In spite of this pact, however, the situation deteriorated steadily. Some Tutsi factions, notably the PARENA ("Parti pour le redressement national") led by ex-President Bagaza, refused to take part, while a sector from the FRODEBU, led by Léonard Nyangoma, a Hutu, rejected it and created the "Conseil national de défense de la démocratie", CNDD, to oppose it. As a result of violent action by Tutsi youth militias, and with the tolerance when not the active participation of the armed forces, violent ethnic clashes went on in Bujumbura, resulting in the expulsion of almost all the Hutu population from the city. In the interior, Tutsi survivors of the massacres remained in camps in a condition of hardship, unable to regain their former homes. The Forces de défense de la démocratie (FDD), the armed wing of the CNDD, began a guerilla war, attacking both soldiers and Tutsi civilians. The Army, in turn, responded by often indiscriminate repression. The economic crisis worsened.

PART III: INVESTIGATION OF THE ASSASSINATION

I. OBJECT OF THE INQUIRY

105. In order to establish the facts regarding the assassination of President Ndadaye, as mandated by Resolution 1012, the Commission had of necessity to investigate the facts regarding the attempted coup

d'Etat, in the course of which the assassination took place. But the coup d'Etat as such, while in itself a crime, was not an object of the Commission's investigation.

106. While the Commission investigated the acts concerning the act of execution itself, which was carried out by soldiers in a military camp in Bujumbura, the main focus of its inquiry was to determine who had ordered the assassination, as well as whether it had been planned in advance as a part of the planning of the coup d'Etat and if so, who had participated in drawing up and carrying out the plan.

II. METHODOLOGY

107. The Commission carried out its investigation by seeking and hearing testimony and seeking written or other evidence that could be pertinent to the inquiry. It sought to hear, among the military witnesses, both the officers, who had publicly alleged that the coup and assassination were carried out by mutinous soldiers and non-commissioned officers which they could not control, and as many of those soldiers and non-commissioned officers as possible.

108. The facts that were to be determined by the Commission had previously been related in the "Fédération internationale des Ligues des droits de l'homme" (FIDH) and the Aké/Huslid reports. The Commission obtained tapes of the pertinent testimony recorded by both Commissions, and heard the member of the FIDH Commission who had investigated the coup and assassination. These tapes, as well as documents supplied by FIDH were used as sources, but were not treated as evidence to support the Commission's conclusions.

III. ACCESS TO EVIDENCE

109. The Commission encountered unsurmountable difficulties in its efforts to obtain pertinent evidence. Since the assassination of President Ndadaye took place in the midst of a military coup, evidence had to be sought in military files and records and in the testimony of officers and enlisted men. The Commission, however, could neither inspect such files and records nor summon such witnesses directly, but had to proceed through the Burundian Ministry of Defense. A request for a transcript of records proved fruitless. So was the request for the names of the non-commissioned officers and men of the "1er Bataillon Parachutiste" and the "11e Bataillon Blindé", the units alleged to have revolted, and of the "2e Bataillon Commando", the unit responsible for the President's protection.

110. With respect to military witnesses, the Commission sought since November 1995, an interview with the Minister of Defense, Lt. Col. Firmin Sinzoyiheba. It was only on 23 January that, after repeated requests, the Commission was received by the Minister. The Minister promised to appoint a liaison officer, but only did so in February after a written reminder from the Commission. The Commission requested the appearance of 51 witnesses through the liaison officer, of which only 40 appeared. It could not request the appearance of non-commissioned officers and enlisted men of the above mentioned units, as the request for their names went unanswered and the officers who testified denied knowing their names. The appearance of military prisoners was obtained through the "Procureur général de la République" (Attorney General), Jean-Bosco Butasi. The Commission requested and obtained a list of those in prison for acts committed during the events of October 1993, although it had no means to verify its accuracy. Full cooperation was received in bringing these prisoners before the Commission.

111. An equally serious difficulty was the security situation in Burundi. Although nominally under the command of the civilian President, it is generally admitted that the Army is a power unto itself, and is publicly accused of being responsible not only for the coup and assassination, as well as the deadly repression that followed, but of being at present engaged, with total impunity, in the large scale killing of civilians. The Army, moreover, has undergone no change in its composition or command since the assassination of President Ndadaye.

112. Under these conditions, and having no means to offer protection or immunity to witnesses, the Commission could hardly expect testimony that could incriminate the Army. It must be borne in mind, in this connection, that the Commission had no means to detect electronic surveillance of its offices, a fact that could have been known or suspected by some of the witnesses themselves, and that at the door to the building which housed those offices, there was a guard of uniformed Gendarmes.

IV. WORK OF THE COMMISSION

113. From 29 October to 20 December, all the members of the Commission worked jointly in the investigation both of the assassination and the massacres and other related serious acts of violence that followed it. On 9 January, the investigation of the assassination was assigned to Commissioners Herrera and Maurice, together with the investigation in the Province of Gitega. On 7 February, it was assigned to the President and Commissioner Güney. On 23 April, Commissioner Güney absented himself from Burundi, and work on the investigation was assigned to Commissioner Maurice. Upon Commissioner Güney's return, on 9 May, he resumed work on the investigation and Commissioner Maurice went back to work on Gitega. When Commissioner Güney resigned from the Commission on 16 May, Commissioner Maurice was once more assigned to the investigation, on which he worked until its conclusion.

114. In the course of the investigation, members of the Commission heard witnesses in Uganda, France and Côte d'Ivoire. The Commission heard in all 61 military and 25 civilian witnesses.

V. THE FACTS ACCORDING TO WITNESSES

A. 3 July 1993

115. On 3 July 1993, a coup was attempted by soldiers of the "2e Bataillon Commando" (2e Commando, Second Commando Battalion), shortly before President Melchior Ndadaye was to be sworn in. The coup failed, and several officers and men were ordered arrested, among them, Lt. Col. Sylvestre Ningaba, who had been "Chef de Cabinet" of President Buyoya, Major Bernard Buzokosa, Major Jean Rumbete, Capt. René Bucumi, Capt. François-Xavier Nintunze and Commander Hilaire Ntakiyica.

B. 10 July 1993

116. President Ndadaye was sworn in on 10 July 1993, and took up residence in the former presidential palace. The palace is situated in the middle of extensive grounds, surrounded by a high wall, on the northwest corner of the intersection of two wide avenues in the center of the city. To the north of the palace stands the former Meridien Hotel, now Source du Nil. A golf course extends beyond the western and part of the northern outer wall.

C. 11 October 1993

117. At around 11 a.m., Lt. Gratien Rukindikiza, Chief of the President's bodyguards, according to his own testimony, was ordered by Lt. Col. Jean Bikomagu, Chief of the General Staff of the Army, to leave for Mauritius on the afternoon of the same day, in order to prepare the President's attendance at a meeting of francophone heads of State that was to take place from 16 to 18 October. Bikomagu also ordered him not to return before 21 October, without giving any reasons. Before leaving Bujumbura, Rukindikiza told Lt. Col. Pascal Simbanduku, President of the "Cour militaire" (Military Court) that he suspected a coup was being prepared, mentioning the names of certain officers, including Lucien Rufyiri and Somisi.

D. Monday, 18 October 1993

118. President Ndadaye returned from the summit in Mauritius on 18 October.

119. On that day, the Minister of Defense, Lt. Col. Charles Ntakije, was informed by the Chef d'Etat-major (Chief of the General Staff) of the Gendarmerie, Lt. Col. Epitace Bayaganakandi, that there were reliable reports that a coup was in preparation. Persistent rumors about this coup had begun to circulate the same day.

E. Tuesday, 19 October 1993

120. President Ndadaye held a meeting of the Council of Ministers on Tuesday 19 October, which lasted all day, and went on the following day until evening.

F. Wednesday, 20 October 1993

121. On Wednesday, 20 October, Major Dieudonné Nzehimana, Head of military intelligence, told his superiors that there was tension among some soldiers in the capital.

122. At around 1 p.m., the Commander of the "2e Bataillon Commando", Major Isaïe Nibizi, whose unit provided the men for the presidential guard, inquired whether the President's wife was still at the palace and was told that she was.

123. At around 4 p.m., Major Isaïe Nibizi, the Commander of the "2e Bataillon Commando" requested an urgent meeting with the President's Chef de Cabinet, Frédéric Ndayegamiye, and told him that elements of the "1er Bataillon Parachutiste" (1er Para, First Airborne Battalion) and the "11e Bataillon Blindé" (11e Blindé, Eleventh Armored Battalion), which shared the same quarters in Camp Para, were preparing to stage a coup, that they were very excited, that they intended to arrest some political figures and worried that they might have fled. Major Nibizi said he had informed the "Etat-major général" of the Army that a coup was imminent. He asked Ndayegamiye to provide him with an unmarked car in order to make a tour of inspection of the units concerned.

124. Ndayegamiye then contacted Bikomagu and asked him to verify the rumors. Bikomagu told him that he had visited the "1er Para" himself and had found everything normal. He gave assurances that nothing would happen.

125. In the afternoon several persons, including unit commanders, reported to Bikomagu that an imminent coup was rumored. The imminence of a coup was discussed at the "mess des officiers" (officers' mess).

126. The President's political and diplomatic adviser, Antoine Ntamobwa, was told at 5 p.m. by the Chef d'Etat-major of the Gendarmerie, Lt. Col. Bayaganakandi, that a coup by the "1er Para" and "11e Blindé" would take place at 2 a.m. next day. He tried without success to contact the Minister of Defense, Lt. Col. Ntakije, who was at the meeting of the Council of Ministers.

127. At around 6 p.m., Lt. Joseph Rugigana of the "2e Commando" was told by Capt. Idelphonse Mushwabure, of the same unit, that something was afoot and that he should remain on the alert.

128. Major Nibizi ordered some of his men to be on the lookout and to warn all positions. At around 8 p.m., he ordered Capt. Mushwabure to go and assume command of the presidential guard at the palace. Mushwabure contacted his subordinate officer, Lt. Gabriel Bigabari, who was at the palace at the head of the detachment of the presidential guard there, and ordered him to put all his men on alert, prepare all weapons and take all necessary security measures pending his arrival.

129. The Council of Ministers ended at 9 p.m. At that time, Ntakije was informed by presidential adviser Ntamobwa of his earlier conversation with Bayaganakandi. He was told that the coup would be launched at 2 a.m. in the night of 21 October, by elements of the "1er Para" and the "11e Blindé".

130. President Ndadaye was informed of the imminence of a coup by his Minister of Communication, Jean-Marie Ngendahayo, and had this information confirmed by the Minister of Defense, in the presence of the political and diplomatic attaché. The President requested that Ningaba, who was in prison for the 3 July coup, be transferred to another prison but the Minister of Defense, Lt. Col. Ntakije, reassured him, saying that the prison guard would be reinforced by the Gendarmerie.

131. The President arrived at the palace around 9.30 p.m. and told Mrs. Ndadaye that, according to the Minister of Communication, there would be a coup during the night. He appeared worried and left his cellular phone on when he retired for the night.

132. When the Secretary of State in charge of security at the Ministry of Defense, Lt. Col. Lazare Gakoryo got home, he was told that Bikomagu had phoned him. He tried without success to reach him on the telephone.

133. At around 9.30 p.m., Minister Ntakije stopped by at the officers' mess, on his way to a meeting, to look for the commanders of the "1er Para" and "11e Blindé". He only found the commander of the "1er Para", Major Juvénal Niyoyunguruza, who assured him that he had heard nothing out of the ordinary and who minimized the danger. The Minister told him to watch the situation closely together with the Commander of the "11e Blindé". He recommended both spend the night in camp with their respective units.

134. At about 10 p.m., Ntakije held a meeting with Bikomagu, Bayaganakandi, Nibizi, Major Ascension Twagiramungu, Head of the operations section, Major Nzehimana and another officer in charge of information in the general staff of the Gendarmerie. It was decided that measures would be taken to contain any action by the troops and that Twamiramungu would keep Ntakije informed. These measures included sending units from the "2e Commando" which had several armored cars, to guard the

bridges on the River Muha and thus prevent any armored car from reaching the presidential palace. No measures were taken to stop the footsoldiers, who could easily cross the river at any point. There is conflicting testimony regarding whether Ntakije informed the President of the result of this meeting.

135. Around 11 p.m., Major Niyoyunguruza telephoned Major Sophonie Kibati, officer on guard at the Etat-major of the Army, to report unusual activity in Camp Para, and was told to hide the keys to the armory.

136. At 11 p.m., Capt. Mushwabure arrived at the presidential palace after stopping on his way at the home of Capt. Térence Cishahayo, an officer of the "2e Commando", to tell him to return to his unit. Mushwabure took over command from Lt. Bigabari, put the detachment on alert, and informed the President that the imminence of a coup had been confirmed.

137. At about 11.30 p.m., Lt. Léonidas Sindarusiba, of the "2e Commando", arrived at Camp Muha, where his unit was quartered; he met Major Nibizi and Lt. Rugigana in the canteen. Major Nibizi asked them to stand ready since a coup was in preparation.

138. At about the same time, Lt. Col. Gakoryo spoke on the phone with Lt. Col. Bikomagu, and was told by him there had been considerable tension that afternoon among soldiers of the "1er Para" and "11e Blindé" and that they had even threatened their officers. Gakoryo asked whether arrangements had been made to ensure that the soldiers did not cross the bridges on the River Muha, which separates the military camps from the city center. Bikomagu replied that the "2e Commando" would defend the bridges. Gakoryo then telephoned Lt. Col. Bayaganakandi, who confirmed this information.

139. Shortly before midnight, Major Daniel Ningeri, Commander of Camp Base (the armed forces base camp), who was at home, heard shots. Testimony is contradictory as to whether he at that time received a telephone call from Capt. Nicolas Ndihokubwayo, officer on guard in Camp Base, informing him that soldiers had forced their way into Camp Base and compelled drivers to take out the trucks.

140. Towards midnight, Major Nibizi gave orders to prepare the armored vehicles in order to defend the bridges on the River Muha. Before they had left, armored cars from the "11e Blindé" passed the Camp on their way to the center of the city. The armored cars of the "2e Commando" left the Camp under the command of Lt. Rugigana, with units of the "11e Blindé" ahead and behind them. Shots were heard from all directions.

G. Thursday, 21 October 1993 - Midnight to 2 a.m.:

a) At Camp Para

141. Camp Para, shared by the "1er Para" and "11e Blindé", is in the southern part of Bujumbura, at a distance of about four kilometers from the presidential palace. Camp Muha is some hundreds of meters away. The River Muha, which cuts across the city, is about one kilometer away, and is crossed by two bridges.

142. Most testimonies state that troop movements in Camp Para started before 1 a.m., although there are considerable contradictions as to time. The Commander of the "1er Para", Major Niyoyunguruza testified that soldiers, led by Corporal Juvénal Gahungu, broke into his office as early as 11 p.m., when he had just finished reporting on the situation to Major Kibati, the officer on guard at the Etat-major (Kibati,

on his part stated that he received the call around 2 a.m.). Niyoyunguruza states that he was then forced to remain in a garage.

143. Troops of the "1er Para", together with the armored cars of the "11e Blindé" left the Camp and proceeded directly without any opposition to the palace. Again, there are considerable contradictions as to the time, which is stated by most witnesses to be around 1.30 a.m.

144. Starting at about the same time, at least five detachments of soldiers and non-commissioned officers went out from Camp Para to set up military checkpoints throughout the city, to take the Etat-major of the Army, the air-force base, the radio station and the telephone company, to bring François Ngeze, a UPRONA Hutu parliamentarian who had been Minister of the Interior in Buyoya's Government, to bring Lts. Jean-Paul Kamana and Jean Ngomirikiza of the "11e Blindé", to capture several important FRODEBU Government officials, and to try to rally to their cause the soldiers at Camps Base, Ngagara, Kamenge and Muzinda. One of these detachments, according to all testimony but his own, was led by Corporal Gahungu who, on his part, testified he had never left the Camp that day. Witnesses state that Corporal Nzeyimana was with him.

b) At Camp Muha

145. Camp Muha, where the "2e Commando" is stationed, is located near the river from which it takes its name.

146. Major Nibizi ordered the four armored cars under his command to get ready to defend the bridges on the River Muha. Most testimonies state that this order was given around 1 a.m. The commander of the armored squadron, Lt. Rugigana, however, states that it was only at 1 a.m. that someone sent by Nibizi came to wake him up at home, where he was sleeping, to take him to the Camp.

147. Around 1.30 a.m., as the armored cars were about to leave Camp Muha under the command of Rugigana, some armored cars from the "11e Blindé" passed by the door on their way to the palace. Rugigana and his armored cars left Camp Muha and proceeded to the palace, with some units of the "11e Blindé" preceding them and others behind them.

c) At the palace

148. The guard at the palace, under the command of Capt. Mushwabure, consisted of around 40 men. Numbers given by witnesses vary from 35 to 60. They had two armored cars. The guard had not been reinforced.

149. Around 1 a.m., Capt. Mushwabure received a call from Major Nibizi to inform him that the coup had started at Camp Para.

150. Around 1.30 a.m., President Ndadaye received a telephone call from Minister Ntakije telling him that the coup had started. He got dressed in civilian clothes and went out of the house and was put into one of the armored cars of the guard. Considerable contradictions exist regarding this act. A witness states that Mushwabure put him into the armored car. Mushwabure himself says that, against his advice, the President insisted on going into the car, saying that Minister Ntakije had advised him to do so. Ntakije states that he advised the President to leave the palace at once in an armored car. Mrs. Ndadaye states that Ntakije only told the President about the beginning of the coup and hung up without comment.

151. The President stayed in the armored car and did not talk to the crew. Although he had his cellular telephone with him, telephone records show that he made no calls and that he received only two calls, one lasting 27 seconds, from his Chef de Cabinet, who advised him to leave at once, and another, lasting 40 seconds, from an unidentified source. Mrs. Ndadaye tried to telephone him, but only heard the taped signal saying that the telephone was out of reach.

152. Meanwhile, Mrs. Ndadaye telephoned the Minister of Foreign Affairs, Sylvestre Ntibantunganya; the "Chef de la Documentation nationale" (Secret Service), Richard Ndikumwami; the Minister of Agriculture; the "Chef de Protocole", Jean-Marie Nduwabike and some other friends. She called the President of Rwanda, Juvénal Habyarimana, who told her that he had already been informed of the coup.

153. Shortly after 1.30 a.m., armored cars from the "11e Blindé" and two from the "2e Commando", one commanded by Lt. Rugigana and the other by Lt. Augustin Managure, arrived together at the palace. The other two armored cars from the "2e Commando" had turned back on the way. Capt. Mushwabure, however, contradicts himself about the hour of their arrival.

154. Lt. Rugigana went into the palace grounds with his armored car by breaking the gate leading to the Hotel Meridien. Some soldiers from the "1er Para" who tried to follow him in were turned back without shooting. Instants later, shooting from submachine guns started from the troops that had surrounded the palace.

d) At the Etat-major

155. The offices of the Etat-major are located near the center of the city, on the north side of the River Muha.

156. Probably around 1 a.m., Major Kibati, the officer on duty, received a call from the Commander of the "1er Para" telling him that his troops were in revolt. After consulting with Major Twagiramungu, Head of the operations section, he called Bikomagu and informed him.

157. Kibati also called Major Deo Bugegene, Commander of the Air Force Base and told him to proceed to his base.

158. Minister Ntakije testified that before 2 a.m., he telephoned Bikomagu, who was at the Etat-major and who advised him to go into hiding. This version is contradicted by Bikomagu's and other witnesses' testimony, who state that Bikomagu first arrived at the Etat-major around 2.30 a.m.

e) Elsewhere

159. According to his testimony, Minister Ntakije was awakened at his home at 1 a.m., by a call from Twagiramungu, informing him that preparations were going on in Camp Para. Ntakije asked him to report whether the measures he had recommended had been carried out.

160. Ntakije states that he then called President Ndadaye to inform him. Ntakije then went to the Ministry of Defense. Before entering, he telephoned Bikomagu who, according to Ntakije, was at the Etat-major, and was advised by him to go into hiding. He then passed by his home and went on to hide in a friend's office, where he arrived as firing started to be heard in the city. He kept in touch with Mrs. Ndadaye, who was at the palace, and Bikomagu. He received a call from the Minister of Defense of Rwanda, who offered him aid. He states that he contacted practically all Ministers and advised them to go into hiding and to pass on the advice to FRODEBU leaders.

161. Between 1.30 and 2 a.m., the following officers who were in prison in Bujumbura accused of having participated in the 3 July coup, were liberated by soldiers: Major Busokoza, Capt. Bucumi, Capt. Nintunze and Major Rumbete.

H. Thursday, 21 October 1993 - 2 a.m. to 6 a.m.:

a) At the palace

162. Around 2 a.m., about 15 armored cars from the "11e Blindé" that had concentrated in front of the Meridien gate fired their cannon, but drew back when the palace guard fired some anti-tank rockets, and took positions around the outer wall of the palace. Firing went on for about fifteen minutes. No one was wounded and neither the armored cars nor the palace sustained any damage.

163. The President remained inside the armored car, speaking only with Mushwabure. Mrs. Ndadaye and her children remained inside the palace.

164. Around 5 a.m., Lt. Managure, commander of the second armored car from the "2e Commando" that had remained outside the surrounding wall of the palace, entered on foot, and told Lt. Bigabari that Lt. Kamana, Commander of the infantry squad of the "11e Blindé", who led the troops surrounding the palace, threatened to bombard the palace unless everyone came out. He stated that Lt. Kamana forced him to deliver the message. Lt. Kamana, on his part, testified that, far from being in command, he was held hostage by the mutinous troops.

165. Around 5.30 a.m. the armored cars around the outer wall started firing their cannon again, and hit the second floor of the palace. A daughter of the President was slightly hurt by debris.

166. The President, at Mushwabure's urging, changed into military uniform and was transferred to Rugigana's armored car. Mrs. Ndadaye, her children and two servants were taken into another armored car. When it failed to start, they were transferred to the third armored car, which took them to the side of Rugigana's armored car. They were then all transferred to this car, where they joined the President. Apart from telling the President about her conversation with the President of Rwanda, she had no conversation with the President.

167. The President was then called out by Mushwabure and both, together with Firmin Barengayabo, a palace servant, attempted to go out over the northern wall, but found that there were soldiers on the other side. Barengayabo, who had gone over the wall first, was captured. The President went back to Rugigana's armored car.

b) At Camp Para

168. Around 3 a.m., a detachment arrived with Ngeze, dressed in a jogging suit and wind-jacket and driving his own car. According to his testimony, he was put into an empty office and kept isolated.

169. Shortly after, Bikomagu arrived at the Camp and talked to the soldiers and to Ngeze. He left after about an hour. In his testimony, Bikomagu states that he was forcibly brought to the Camp by soldiers who had taken him at the Etat-major, and had to convince them to let him leave the Camp.

170. At 5 a.m., according to his testimony, the Commander of the "1er Para", Niyoyunguruza, was taken in a truck to the officers' mess.

c) At Camp Muha

171. Around 2 a.m., two of the armored cars that had gone out with Rugigana's but turned back, entered the Camp. One, commanded by Lt. Joseph Bodiguma stayed on guard, while the other, commanded by Lt. Sindarusiba, according to his testimony, was sent by Nibizi to bring the President of the National Assembly, Pontien Karibwami, for his protection. Sindarusiba came back some time later to report that, when he arrived at Karibwami's home he was told that he had been taken away by a group of soldiers shortly before. He was then sent by Nibizi to bring the Minister of Foreign Affairs, Sylvestre Ntibantunganya.

d) At the Etat-major of the Army

172. Upon his arrival, at around 2.30 a.m., Bikomagu, according to his testimony, telephoned the Commander of "1er Para". Niyoyunguruza, on his part, testified that at that time he was held in a garage with no telephone within reach.

173. Around 3 a.m., according to his testimony, Bikomagu was forced by a detachment of soldiers to accompany them to Camp Para.

e) Elsewhere

174. Between 2 and 3 a.m., a detachment captured in their homes Richard Ndikumwami who headed the civilian intelligence service and Juvénal Ndayikeza, "Ministre de l'Administration territoriale et du développement communal", and took them away in a truck. Capt. Térence Cishahayo, of the "2e Commando", testified that he had just arrived at Ndayikeza's home with his military car, under orders from Nibizi to take him for his protection, when a detachment under Corporal Gahungu also arrived, captured him as well and the Minister and forced both to get in a military truck, where they met Ndikumwami, who had already been captured.

175. The President and Vice-President of the "Assemblée Nationale", Pontien Karibwami and Jules Bimazubute, were also taken from their homes about this time. The rebels also sought in their homes the Minister of Foreign Affairs, Sylvestre Ntibantunganya, but could not find him. His wife, who was roughly treated by the soldiers at the time, was later killed at another house where she had taken refuge.

176. Around 2 a.m., the rebels arrived at the telephone company with Busokosa, whom they had freed from the prison, and who had been director of the company. They took over the telecommunication center but did not succeed in interrupting the service. Busokosa testified that this was due to his lack of cooperation.

177. Around 3 a.m., the radio station was taken over by the rebels.

178. According to the autopsy, Karibwami, Bimazubute, Ndikumwami and Ndayikeza were executed around 5 a.m.

I. Thursday, 21 October 1993 - 6 a.m. to noon:

a) At the palace

179. At about 7 a.m., the armored car commanded by Rugigana left the palace with the President and his family through the south gate, without opposition from the surrounding troops and armored cars. It

then proceeded, at the President's request, to Camp Muha by an indirect route. On the way, they were allowed to go through several barricades after the crew talked to the rebellious troops that guarded them.

180. After the President had been driven away from the palace ground, Mushwabure, according to his testimony, went over the surrounding wall and went into hiding.

b) At Camp Muha

181. Bikomagu arrived in Camp Muha around 4 a.m., from Camp Para. Gakoryo, according to all testimony but his own, was at the Camp before President Ndadaye was brought in. He states, however, that when he arrived he found the President already there.

182. President Ndadaye and his family arrived at Camp Muha in Rugigana's armored car shortly after 7 a.m. The President was taken to an office where he met Bikomagu, Secretary of State Gakoryo and Nibizi. Neither of these three officers gave details in their testimony as to the conversation that took place. After about twenty minutes, the President was led back to the armored car, where he rejoined his family shortly before 8 a.m.

183. According to the testimony of the officers, rebellious troops arrived outside Camp Muha in a menacing attitude between fifteen minutes and half an hour after the President, and demanded to be let in. No shots were fired.

184. Around 8 a.m., after, according to Nibizi's testimony, his soldiers refused to obey his orders to defend the Camp, the gates of Camp Muha were opened and a group of soldiers came in and surrounded the armored car and Bikomagu, Gakoryo and Nibizi, who stood next to it. The President and his family were forced out. The President told the soldiers, in Kirundi: "Tell me what you want, we can negotiate, but above all do not spill blood, think of your country, think of your families". Bikomagu then told the soldiers that he would take Mrs. Ndadaye and the children. According to Mrs. Ndadaye's testimony, Bikomagu added, referring to the President: "There is the man you want. Do whatever you want with him". In his testimony, Bikomagu denied having said those words. Mrs. Ndadaye and her children left the Camp in Bikomagu's jeep, driven by his chauffeur, and proceeded to the French Embassy. The President was put in a jeep by the soldiers and taken to Camp Para. Bikomagu, Gakoryo and Nibizi went with them.

c) At Camp Para

185. Around 8.30 a.m, the soldiers arrived at Camp Para with the President, who was immediately surrounded by a crowd of soldiers. According to their testimony, Lt. Kamana told Nibizi to leave with Bikomagu and Gakoryo because their life was in danger. They proceeded to do so. According to a witness, however, upon arriving in Camp Para, Bikomagu again told the troops: "Here is your man".

186. Major Rumbete, who had been released from prison and brought to the Camp shortly before, was present when the President was brought in.

187. The President was put in a room, under guard.

188. Shortly after, Kamana who, according to all testimony but his own, was in command, addressed a meeting of the troops. He then made a list with the names of some officers and sent Adjutant-Chef Mbonayo to the officers's mess to get them.

189. The exact time of the execution of President Ndadaye could not be determined by testimony. It apparently took place within thirty minutes of his arrival. Three soldiers from the "11e Blindé", Corporal Philbert Nduwukumana, alias Kiwi, Corporal Ndayizeye, alias Runyutu and another, went into the room. Apparently while being held by two with a cord around his neck, the third stabbed him. Nduwukumana, now in prison, refused to testify before the Commission. Ndayizeye could not be found and the third could not be identified. A witness stated that, after these three men entered the room, someone padlocked the door, locking them in until Kamana, shortly after, asked for the key and released them. This is refuted by Kamana's testimony.

190. Around 10 a.m., the officers from Kamana's list who had been summoned at the officers' mess arrived. Among them were Lt. Col. Simbanduku, Major Nibizi, Major Alfred Nkurunziza, Director of a department at the Ministry of Defense, Major Juvénal Nzosaba, Commander of the Engineer Battalion at Muzinda, Major Deo Bugegene, Commander of the Bujumbura Air Base, Major Hypax Ncacasaba, Lt. Ngomirakiza, Major Rumbete, Major Busokoza and Major Celestin Ndayisaba, Second Commander of the military schools.

191. Bikomagu, who was not on the list, arrived with them. He had the soldiers release the Chef de Protocole and two other civilians who had been captured and brought to the Camp.

192. The officers were met by Lt. Kamana, who led them to a meeting room. Although testimony differs on many points as to what took place in the room, most concur in stating that Kamana brought Ngeze, still in a jogging suit, and said the soldiers demanded him as President. According to a witness, he told them at that point that the President and Vice-President of the "Assemblée Nationale", Pontien Karibwami and Jules Bimazubute, as well as some Ministers, had been killed. Asked about the President, he answered that he was in the Camp, alive. It was then agreed that Ngeze should accept to take over, in order to "manage the crisis". Kamana then left the room and shortly afterwards returned and announced that President Ndadaye had been killed. Simbanduku and another officer left for the officers' mess to inform the officers gathered there.

193. Around 11 a.m., Ngeze, accompanied by the remaining officers, addressed the troops on the football grounds. Ngeze announced his acceptance and was cheered. It was agreed that the soldiers would return to obedience of their officers and that Bikomagu would resume command. Ngeze and the officers then left the Camp to go to the officers' mess.

d) At the Etat-major

194. Around 8 a.m. Twagiramumgu left and went to the Etat-major. Kibati remained as the sole officer on guard.

e) At the officers' mess

195. Around 7 a.m., officers started to congregate at the officers' mess, which is situated near Camp Muha. By 9 a.m., most of the officers stationed at Bujumbura had arrived. Some were brought in military trucks. Many officers claim that they were prevented by the troops to leave the mess. Bikomagu, however, circulated freely and Simbanduku stated that he went home for a while.

196. Around 9 a.m., Bikomagu, Gakoryo and Nibizi arrived and announced that the President was in the hands of the soldiers in Camp Para. While at the officers' mess Bikomagu received a telephone call, after which he said he feared President Ndadaye was dead.

197. According to an officer present, rumors started circulating at that time that the soldiers of Camp Para were about to summon some officers. Shortly after, a group of some six soldiers, led by Adjudant-Chef Mbonayo, arrived and read the list prepared by Kamana. Accounts of the number and composition of the list vary. Bikomagu stated in his testimony that the list consisted of thirteen officers. The name of Lt. Col. Sylvestre Ningaba, who was not present, was on it.

198. Mbonayo asked the officers whose names were on the list to go with him to Camp Para. Some of these officers stated that they were forced to go, without being told the purpose of the summons. They left in a minibus.

199. Bikomagu left for Camp Para, in his car, at the same time. The other officers remained at the mess.

200. Before 11 a.m., Simbanduku and Nsozaba returned to the officers' mess from Camp Para, and related the events that had taken place there, including the President's death. Simbanduku states that he then stayed at the mess, but a witness states that he went back to Camp Para.

201. Around 11 a.m., the group of officers returned from Camp Para, with Ngeze, still dressed in jogging clothes, and Bikomagu. According to all testimony but his own, Simbanduku presented Ngeze as the new President. Ngeze addressed the officers, telling them that the soldiers demanded that he take charge in order to "manage the crisis" and asking for their support. Ngeze, Bikomagu and the officers that had arrived with them then left for the Etat-major, while the other officers left to go to their units.

J. Thursday, 21 October 1993 - After Noon:

a) At the Etat-major

202. Ngeze and the group of officers arrived at the Etat-major from the officers' mess around noon. There, they found Lt. Col. Sylvestre Ningaba, who had been freed from prison at Rumenge, 122 kilometers from Bujumbura, where he had been held under the accusation of having led the 3 July attempted coup, and Com. Hilaire Ntakiyica, also released from prison.

203. Bikomagu organized a "general staff for the crisis" made up of some of the officers named in Kamana's list and some officers from the Etat-major. Simbanduku, Ndayizaba Nzosaba and Nkurunziza were included.

b) Elsewhere

204. Jean-Bosco Daradangwe, Director General of Communication at the Ministry of Defense, stated that at 7 a.m., he received a message from Minister Ntakije telling that FRODEBU had already "mobilized its troops" and that there was going to be a bloodbath. He then went to Ntakije's hiding place and, without entering, sent someone to deliver a cellular phone to him.

VI. ANALYSIS OF TESTIMONY

205. The above account of the events as represented by testimony can by no means be taken as reliable evidence. It is completely one sided. Apart from some soldiers and non-commissioned officers who were in prison, the Commission had access only to officers. All the officers, including Kamana, maintained that

the coup and assassinations were the deed of rebellious soldiers, who not only disobeyed their officers, but threatened to kill them if they did not cooperate. The Commission, however, was not given access to these alleged rebels so that it could hear their testimony. Understandably, prisoners for the most part declined to testify or claimed they had done and seen nothing. It is evident that officers had ample time in over two years to compare notes and practice their accounts so as to conform them to the official version of the Burundian Army. To convince several hundred enlisted men to take the blame and to rehearse them so that they would not incur in blatant contradictions would have been an impossible undertaking. Even so, the officers' testimony is full of contradictions and of alleged lapses of memory, especially when the witnesses answered questions.

206. In considering the officers' version, it must be borne in mind that Burundi is a country entirely dependent on foreign aid. No Burundian Government could hope to survive without the contribution of the industrialized countries and international organizations, which amount to about a third of the gross national product. Income from coffee exports would not suffice even to maintain the Army, let alone the Government and the standard of living to which high government officials had become accustomed to. With the end of the Cold War, the option of playing East against West no longer existed. The industrialized countries had already adopted at the time the unanimous policy of encouraging democracy in Africa. They could be expected to react with irresistible pressure against any de facto government resulting from a military coup, led or controlled by the authors of the coup. The memory of French, Belgian and Zairian troops intervening in Rwanda to defend Habyarimana's Government was fresh in all minds. It would have been essential, for any officers planning a coup at that time, to ensure that when they took effective power, it would be with apparent reluctance, as men intent on helping their country out of a crisis for which they had not been responsible. Precedent was at hand. The coup that had overthrown Bagaza five years earlier had, in fact, been initiated by discontented troops. Precedents, such as that of Haiti, also showed that it was also essential to secure that no person who could claim legitimate democratic authority would manage to get away. This meant President Ndadaye and the person who would automatically succeed him according to the Constitution: the President of the "Assemblée Nationale" (Art. 85 of the Constitution of the Republic of Burundi, Annex 2).

207. The version of events at the presidential palace cannot be given credence. Fully aware of the impending danger, the military commanders in fact did nothing to reinforce the palace guard, to prevent the "rebellious soldiers" from reaching the palace, or to take the President to a safe place. An armed confrontation is reported to have taken place between "attackers" and "defenders" for about six hours, with fire from cannon, rockets and small arms, yet no one was killed, no armored car damaged. During all this time, except for the alleged attempt of escape over the outer wall, the President remained inside an armored car, cut off from the world, allegedly for his protection, while his wife and children were left inside the palace. When his wife and children joined the President in the armored car, he hardly spoke a word, except to "request" to be taken to Camp Muha. The armored car then left the palace and went away without any challenge from the "attackers", who commanded not less that fifteen armored cars, and was given free passage through several checkpoints manned by "rebel" soldiers. The established facts suggest, rather, that the President was in fact a prisoner in the armored car, and that his silence in the presence of his wife, as well as his "request" to proceed to Camp Muha, were the result of his wish to preserve her life and that of his children.

208. The version of events at Camp Muha when the President was brought there in the armored car is equally lacking in credibility. To begin with, no effort had been made by the "rebels" to secure the camp, as was done at other camps, although Nibizi, its commander, stated that his soldiers had refused his orders to act against the "rebels". The direct commander of the Army, Bikomagu, was at the camp, and stayed with the President in an office for no less than half an hour, together with Nibizi and Gakoryo. Yet no account of any discussions is given, no telephone calls were made by the President, although it is

established that Bikomagu had a cellular telephone. No attempt was made to hide the President or to take him to safety, although it had been demonstrated that the armored car could circulate freely and, if all else was hopeless, the border with Zaire was only twenty kilometers away. The President was taken back to the armored car only to be delivered to the "rebel troops". The "pressure of the rebel troops" against the Camp during this time is alleged to have proved irresistible. Yet when the armored car with the President arrived at the Camp, the "rebel" armored cars at the palace had not followed it, and during the whole episode no shot was fired. Bikomagu who, according to his testimony, had been taken forcibly from his office and been held prisoner in Camp Para some hours previously, secured without effort from the same "rebels" the President's wife and children. The facts as reported suggest, rather, that the President was a prisoner, and that he was delivered to his executioners when he refused to cooperate.

209. As these events were taking place, the majority of the officers of the garrison of Bujumbura were at the officers' mess. Some stated they had gone there to obtain information, others that they had been forcibly taken there by the "rebels". All those who testified, except Bikomagu and Simbanduku, who admitted they could leave freely, stated that they were held there against their will. They submitted passively, without attempting any action. Such conduct in a numerous group of officers can only be interpreted as complicity or extreme negligence and cowardice.

210. It is established that the rebels, within a short time, "attacked" the palace, took the radio station and telephone company, neutralized the Airforce Base near the Airport, captured high officials, freed imprisoned officers from different prisons throughout the country, summoned officers to the mess and established checkpoints throughout the city. Yet all this is alleged by the officers to have resulted from the initiative of non-commissioned officers in Camp Para, with no officers present save the Commander, who claims to have been held in a garage by force. While the previous day all officers in Camp Muha were told to spend the night in their camp with the troops, in view of the unrest among the troops in neighboring Camp Para, no such orders had been given to the officers of Camp Para, who were allegedly sleeping peacefully in their beds until much later summoned to Camp Muha by Bikomagu.

211. The events that followed immediately after the death of President Ndadaye contribute to the lack of credibility of the officers' version. No sooner had the President been murdered, than the officers regained command of their troops, and Bikomagu retook supreme command of the Army, adding the Gendarmerie to his command. Bikomagu was, according to all reports, in effective control of the "Committee for the management of the crisis" of which he was a member, with Ngeze as an obvious and willing figurehead. Among the first actions of this committee was ordering the provincial military commanders to take over from the Governors. Although this committee was allegedly merely trying to bring the situation back to normal, far from attempting to return power to the civilian Government, it tried to set up, without success, a "Council of National Salvation" that could provide some appearance of respectability. It was only three days later, when most of the interior of the country was engulfed in an apparently unstoppable ethnic bloodbath and all hope of acceptance by the donor countries was lost, that power was returned to the civilian government, without any objection from the allegedly uncontrollable troops.

212. Special consideration must be given to Bikomagu's activities, since as "Chef d'Etat-major général de l'armée", according to the structure of the Burundian armed forces, he had direct command of the Army, under the Minister of Defense. The following is a summary of his actions as reported by himself or by other witnesses:

- On 11 October, he orders the head of the President's bodyguards to leave to Mauritius immediately, and not to return before 21 October, without giving reasons.

- On 20 October, at around 4 p.m., he is asked by the President's Chef de Cabinet to verify reports that the "1er Para" and "11e Blindé" were preparing to stage a coup, and answers that he has personally inspected these units and that all is normal.

- At about 11.30 p.m. on the same day, he tells Gakoryo on the telephone that there had been considerable unrest that afternoon among the soldiers of those same units, and that they had even menaced their officers, and was asked whether measures had been taken to ensure that the soldiers could not cross the bridges on the River Muha.

- He claims to have been asleep at 1 a.m., when an officer from the Etat-major telephoned him to tell him that the rebellion had started. He claims to have stayed home until around 2.30 a.m., when, hearing cannon shots, he went to the Etat-major.

- Around 3 a.m., he leaves for Camp Para, according to him under the constraint of rebellious soldiers, and there talked with Ngeze.

- At around 4 a.m., he leaves Camp Para and goes to Camp Muha. There he claims to have asked Nibizi to send someone to get the officers of the "1er Para" and "11e Blindé" at their homes. He claims he told these officers to go regain the control of their troops

- He is at Camp Muha when the President was brought in around 7 a.m., and, together with Gakoryo and Nibizi, talks with the President for some time in an office. When the President is captured by enraged troops out of control, he has no difficulty in taking charge of the President's wife and children and sending them away in his jeep.

- He follows the troops that had taken the President to Camp Para. Once there, he leaves allegedly in mortal danger, and goes to the officers' mess, where all the officers were allegedly held against their will.

- He returns to Camp Para around the time the President is killed and the list of officers to be summoned is sent to the mess.

- He arrives back at the mess just as the group of officers is leaving for Camp Para, and leaves with them, in his own car.

- In Camp Para, he has the troops free three civilians that they had captured. He allegedly takes them personally to the other side of the city.

- He arrives back at the mess at the same time as Ngeze and the group of officers from Camp Para. At the mess, he "regains" command of the Army.

- He then goes with Ngeze and the officers to his offices at the Etat-major, and becomes the dominant figure of a "committee" of three. He then adds to his command the command of the Gendarmerie and orders provincial military commanders to take over from the Governors. The committee summons diplomats and political leaders to seek their support, and tries unsuccessfully to constitute a "Council for Public Safety" to exercise power. It broadcasts a communique, read by an officer, in the name of the fictitious Council, in which it is stated without qualification that all the units of the Armed Forces and Gendarmerie had risen against the Government.

- The committee is in control for three days and only reinstates civilian Government when it has failed to control the bloodbath throughout the country in spite of the bloody repression by the Army under Bikomagu's command, and has lost all hope of overcoming the adamant opposition of the international community.

- After the reinstatement of civilian power, Bikomagu remains in command of the Army and Gendarmerie, a position which he retains to this day. The official version of the coup is that only the enlisted men and non-commissioned officers of the two "rebellious" battalions are responsible. The only officers involved in the planning and execution of the coup are those who had been freed from different prisons and two lieutenants, all of whom had by then conveniently fled the country.

VII. CONCLUSIONS

213. Although the Commission did not obtain, nor could be expected to obtain under the circumstances, direct proof in the form of testimony or written evidence, it considers that circumstantial evidence is sufficient to warrant the conclusion that the assassination of President Ndadaye, as well as that of the person constitutionally entitled to succeed him, was planned beforehand as an integral part of the coup that overthrew him, and that the planning and execution of the coup was carried out by officers highly placed in the line of command of the Burundian Army. The Commission considers, however, that with the evidence at hand, it is not in a position to identify the persons that should be brought to justice for this crime.

PART IV: INVESTIGATION OF MASSACRES AND OTHER RELATED SERIOUS ACTS OF VIOLENCE

I. SCOPE OF THE INQUIRY INTO THE MASSACRES AND OTHER ACTS OF VIOLENCE

214. In compliance with its terms of reference, the Commission investigated the massacres and other related serious acts of violence that followed the assassination of President Ndadaye. Since acts of violence in Burundi have at no time ceased since the assassination, and are a consequence of it, the first matter for the Commission to determine was the period of time that should be investigated.

215. As has been stated, as a result of the putsch of Thursday, 21 October 1993, in the course of which President Ndadaye was assassinated, the civilian Government was de facto deprived of the exercise of power from that date until Sunday, 24 October, as its members were killed, took asylum in foreign embassies or went into hiding. Effective power was assumed by a committee, which on the 21 ordered all provincial military commanders to replace the Governors. It was only on Saturday evening that a member of the committee announced the restoration of the constitutional Government. It was during this period of 21 to 24 October that most of the violence took place. The first measure of the Government was to proceed to the pacification of the country by a country wide effort carried out jointly by the civilian authorities, the political leaders and the military. This effort succeeded in putting a stop to most large scale killings, although violence went on in areas beyond its reach and, indeed, has never entirely ceased. A period of comparatively peaceful coexistence followed this pacification effort before the situation again began to deteriorate seriously in the course of 1995. The Commission, therefore, considered that its

investigation should focus on this period of violence, lasting a few days, which immediately followed the assassination.

216. The investigation comprised both the acts carried out against Tutsis and some UPRONA Hutus by members of the Hutu population and those carried out against Hutus by the military and by Tutsi civilians.

217. Regarding the nature of the investigation, the Commission, as has been stated, concluded that its mandate could not be interpreted as requiring it to investigate each and every act of violence and determine the author or authors in each case. The Commission, therefore, focused its investigation on trying to determine whether these acts, directed against Tutsis or Hutus, conformed to a pattern that could point to planning, orders, encouragement or criminal negligence from above, or whether they could credibly have been the result of spontaneous or merely local initiatives.

218. Since at the time that these acts of violence took place there was no possibility of communication between civilians at the level of the communes or below, as neither the telephones nor the radio station were operative, the repetition in places wide apart of unusual patterns of conduct could be an indication that they had been planned in advance. The pattern of these acts could also point to whether violence had a solely political motivation or was directed at the deliberate extermination of an ethnic group.

219. With this end in view, and within the limitations imposed by the inadequacy of the means at its disposal, the Commission sought to select some communes in provinces that could be considered to be representative of the events under investigation.

220. According to all available reports, not all provinces of Burundi were equally afflicted by violence in the period under investigation. Some areas, particularly in the south, where the Tutsis are proportionally more numerous, were comparatively unaffected by violence during the period under investigation. Of the provinces seriously affected, most were inaccessible to the Commission due to reported ongoing violent activity by rebels and the Army. Such was the case in the provinces bordering on Zaire and Tanzania, as well as the Province of Karuzi. Provinces bordering on Tanzania posed the additional problem of their distance by road from Bujumbura, which precluded one day missions.

221. These considerations limited the Commission's choice to five provinces, from which, the Commission chose four: Gitega, Kirundo, Muramvya and Ngozi. Investigation in Kirundo had to be suspended after two missions, due to the reason stated below.

222. In each of these provinces, certain representative communes were selected: Bugendana, Giheta and Gitega in the Province of Gitega; Mbuye, Kiganda and Rutegama in the Province of Muramvya; Kiremba, Mwumba, Tangara and Ruhororo in the Province of Ngozi; and Vumbi and Kirundo in the Province of Kirundo.

II. METHODOLOGY

223. As a result of the public announcement made by the Commission upon its arrival in Burundi, a number of documents referring to acts of violence in the provinces was submitted to it by various individuals, groups and organizations. The Commission analyzed such documents for indications as to specific events or witnesses, although it by no means treated them as evidence or limited itself to the verification of these sources.

224. The Commission carried out its investigation in the field chiefly through the hearing of witnesses. Witnesses were heard singly, some in Bujumbura, but most of them in the field, in provincial capitals or other locations, in localities as available, where they could not be overheard.

225. Witnesses were sought in the displaced persons camps, in the collines and in the jails. As was to be expected, testimony from some witnesses led in tis turn to the identification of other potential witnesses.

226. The Commission sought, with little success, written evidence that would be pertinent to the investigation. It heard, or had translations made of tapes of, broadcasts by the Burundian and Rwandese radios at the time of the events, and saw films that were made shortly after the events by news media or private persons. Whenever it was deemed useful, photographs were taken.

227. The Commission tried to determine the existence and location of mass graves. It did not, however, attempt to have exhumations carried out. Apart from the fact that it did not have the means to carry out such procedures, the existence of such mass graves is, for the most part, an uncontested fact, and exhumations would add little to an investigation at this stage.

228. Members of the Commission carried out a first mission to Gitega and Muramvya in November 1995. In January 1996, in view of the fact that no investigators had yet been appointed, the Commission decided that some of its members, even if unassisted, should proceed with the investigation in the field.

229. The Province of Muramvya was assigned to Commissioner El Moumni, while the Province of Gitega was assigned to Commissioners Herrera and Maurice. In late February and early March, the Provinces of Ngozi and Kirundo were assigned to Commissioner Herrera while Commissioner Maurice went on alone with Gitega. On 24 April, due to the absence of Commissioner Güney, Commissioner Maurice had to be assigned to the investigation of the assassination of President Ndadaye, and Commissioner Herrera took on both Gitega and Ngozi. Work in Kirundo had to be discontinued. Upon Commissioner Güney's return on 9 May 1996, Commissioner Maurice again took on sole responsibility for Gitega, but was once more obliged to dedicate his efforts exclusively to the investigation of the assassination upon the resignation of Commissioner Güney from the Commission on 16 May. Gitega was once more assigned to Commissioner Herrera Marcano, simultaneously with Ngozi.

230. The Commissioner working on Muramvya was assisted by the Legal Officer, who volunteered to work as an investigator, while, at first, the two Commissioners working on Gitega carried on the work unassisted.

231. Field work in each province was carried out by a team which, apart from the Commissioners, included at least two interpreters, who were rotated and were also responsible for the transcription of the testimony which they had interpreted; one or two United Nations security officers; and an escort of up to four Burundian gendarmes. Up to two investigators were assigned, as they began to arrive after 12 March, to each team.

232. After January 1996, as the result of an arrangement between the Secretary-General of the United Nations and the Secretary-General of the Organization of African Unity, officers of the Mission Internationale d'Observation pour le Burundi, MIOB, provided security assistance to the teams in the field. These officers, from the armies of Burkina Faso, Guinea and Mali, had been posted for over a year in the field. Their knowledge of local conditions and terrain, and their acceptance by all sectors of the population as well as by the Army and Gendarmerie, made their assistance invaluable to the Commission.

III. ACCESSIBILITY OF EVIDENCE

233. Several factors contributed to hinder access to evidence:

A. Insecurity

234. The provinces and communes in which the Commission carried out its investigation are situated in the central and northern part of the central highlands of Burundi. As has been stated above, generalized ethnic separation and confrontation exist at present in the region, as well as widespread guerilla activity and harsh repression. Hardly a day went by without reports of violent incidents and civilian victims, which each side attributed to the other. This situation seriously affected the conduct of the investigation. The whole Province of Gitega was inaccessible for several weeks. The Commune of Bugendana was only accessible towards the end of the mission. Northern Gitega and northern Muramvya were the scene of constant activities by guerillas and the Army. The Commission had to rely for its security on the Burundian Gendarmerie, itself involved in operations. The investigation teams could not, without extreme risk of violence from either side, go into areas deemed insecure by the Gendarmerie.

B. Ethnic separation

235. In all the communes under investigation, virtual ethnic separation is now in effect. Tutsis now live in the provincial capitals and in camps for displaced persons, under Army protection. In most communes, only Hutus remain in the countryside. Hutus who still live in the towns or come to market show constant fear. Tutsis from the camps go out in the daytime to farm in the adjoining hills (some of which have been cleansed of Hutus) and return to their camps before nightfall. Some Hutu farmers identified with UPRONA also live in camps.

236. The Commission had unimpeded access to the camps for displaced persons. The camps themselves are under the authority of a Chef de Camp and the commander of the protective Army detachment. Access to the displaced persons was for the most part obtained through the Chef de Camp, who is often also a local political leader. Very few residents of the camps came up on their own to testify.

237. Access to Hutus, except to those in prison, was very difficult. In the towns, they felt closely watched and feared reprisals if they as much as contacted the Commission. In the field, the Commission found itself in a quandary: if it went with the protection of the Gendarmerie, Hutus would be frightened by their presence. To go unprotected meant to invite incidents, which could be initiated by either side. Even so, the Commission, by leaving its military escort behind, and with the invaluable support of the officers of the MIOB, managed to establish limited contact with Hutu farmers. There were indications, however, that some Hutus that had contacted the Commission were later harassed. This posed not only a practical problem to the Commission, but also one of conscience.

C. Lack of judicial powers

238. A serious impediment in the investigation was the Commission's lack of all power on constraint to summon witnesses or have authorities produce them, to carry out direct inspection and translations of files and records, or to compel exhibition of documents. Although the Commission at all times received the polite cooperation of local judicial authorities (prosecutors and judges), and no limits were placed on its access to prisoners, it depended completely on those authorities for its information regarding all criminal procedures. Prosecution and court records are for the most part written in Kirundi and, due to the rules regarding confidentiality, the Commission could not copy them or have them translated by its own staff. It had, therefore, to rely on the oral translations made by the Burundian judges and prosecutors themselves.

A request to the Ministry of Defense for records of military communications during the period under investigation proved fruitless.

IV. RELIABILITY OF EVIDENCE

239. The Commission had to take into account several factors that contributed to the unreliability of testimony:

A. Ethnic loyalty

240. The present, all-comprising ethnic confrontation in Burundi is not confined to the political or military leadership, but permeates every layer of society. This confrontation is, if anything, stronger in the camps and in the hills of the central and northern highlands, where practically every Hutu and Tutsi family has lost members to ethnic violence. Even the poorest of farmers in either ethnic group feel that their life and that of the members of their family depend on the outcome of this struggle. The Tutsis in the camps are convinced that if their ethnic group lost the monopoly of armed force, they would face extermination at the hands of their neighbors, while the Hutu farmers in the collines, on their part, are convinced that, as long as that monopoly subsists, they will continue to be in constant danger of indiscriminate reprisal, and will have no hope of effective political or economic empowerment. In this atmosphere, a large degree of distortion, suppression or fabrication is to be expected in testimony regarding acts by members of either ethnic group.

B. Time elapsed

241. For the reasons set forth in the introduction, the time elapsed since the events under investigation had a negative effect on the reliability of testimony. This effect was markedly greater on rural witnesses, often illiterate.

C. Manipulation

242. Political propaganda and political activists, present at all levels and aware of the Commission's mandate, no doubt exerted a powerful influence on witnesses. On several occasions, it could be ascertained that lists of names to be incriminated were provided to witnesses. On others, witnesses from the same camp would refer to the same names or events that, upon questioning, proved to be unfamiliar to them. As has been said, the Chefs de Camp for the most part sought the witnesses for the Commission, and it was as easy for them to make a witness available as it was to make him or her unavailable.

D. Insecurity

243. In the situation of total insecurity and impunity that at present prevails in Burundi, it is understandable that the Commission's assurances regarding the confidentiality of testimony were met with skepticism. In the case of witnesses who could not express themselves in French (as was the case of practically all the farmers in the camps and collines) the unavoidable presence of two Burundian interpreters of differing ethnic groups no doubt contributed to such skepticism. The Commission had no means to offer witnesses any kind of protection, nor could it offer total or partial immunity in exchange for cooperation. Such a state of affairs was in no way conducive to openness on the part of witnesses.

E. Cultural characteristics

244. It must be borne in mind that the vast majority of witnesses to the massacres and other acts of violence were subsistence farmers who only spoke Kirundi. A large proportion of these was illiterate. For most, the only input of outside information comes from word of mouth or from the single national radio (and sometimes the Rwandese or the rebel radios as well). On their part, the Commissioners and investigators had no knowledge of Kirundi and only the most superficial acquaintance with Burundian culture and social habits. Communication through interpreters of the educated elite and across this cultural gap was, to say the least, difficult and uncertain. To this must be added the fact that, according to all sources, both national and foreign, it is a Burundian cultural trait to take pride in one's ability to hide one's thoughts and feelings. In general, openness is felt to be a weakness while deceit is socially accepted. As a rule, witnesses told with apparent impassivity the most horrifying narrations of unspeakable violence (murder, rape, torture, mutilation, etc.) done to themselves or to members of their families.

V. COMMON CHARACTERISTICS OF THE COMMUNES INVESTIGATED

245. The communes share many characteristics as to geography and population that were relevant to the events under investigation.

246. All the communes have the typical relief of the central highlands: collines with steep sides separated by often marshy valleys. In such a terrain even military vehicles of the type available to Burundian armed forces, cannot proceed crosscountry.

247. The communes were among the most overpopulated in the country, with a population density of above 400 inhabitants per square kilometer. No part of their surface is unused. Most of it is under intensive use for agriculture. Pastures occupy a very small proportion, and are mostly an adjunct to farms, the rest is occupied by planted trees ("reboisements") and constitute the sole source of wood for cooking, construction and furniture.

248. Families live on their plot of land, so that there are practically no villages. Churches and school buildings often stand alone in the countryside. "Chef-lieux" of communes and zones, as well as marketplaces ("centres de négoce"), for the most part consist of a few houses, used as government offices or shops. People normally congregate only on market days or in church.

VI. THE PROVINCE OF GITEGA

A. Geography and population

249. The Province of Gitega is adjacent on the north to the Province of Ngozi, on the west to the Provinces of Kayanza and Mura[illegible]ya, on the south to the Provinces of Bururi and Rutana, and on the east to the Provinces of Karuzi and [illegible]gi. It has a surface of around 1,989 square kilometers. Its capital, the city of Gitega, with around 15,000 inhabitants, is the country's second largest city and has an important Army and Gendarmerie garrison. Two main asphalted roads reach Gitega, one from Bujumbura, 100 kilometers to the west, and another from Rutana on the south. Important unsurfaced roads lead from the city to Ngozi, Bururi, and Karuzi. The Province had a population of about 565,174 in 1990.

B. Claims and reports regarding events in the province

250. According to the FIDH report, the Governor learned of the coup around 2.30 a.m., on Thursday, 21 October, shortly after it had started. He telephoned the Governor of Muramvya twice. They agreed to block the main road. He then went around the province ordering all roads to be blocked. In the afternoon, he left for the Province of Karuzi, to the east, and was killed there together with the Governor of that province.

251. No serious acts of violence took place in the city of Gitega on Thursday, 21 October. On Friday, as reports arrived regarding the killing of Tutsis, groups of Tutsis began attacking Hutus and pillaging Hutu property. Some educated Hutus were killed by the soldiers. The soldiers shot at Hutus indiscriminately in the streets. Tutsi students killed Hutus in their schools and elsewhere, with the tolerance or complicity of the military.

252. The report describes massacres of Tutsis and indiscriminate repression of Hutus by the troops in eight of the ten communes of the province.

253. According to a report from FRODEBU, indiscriminate killing of Hutus by soldiers and Tutsi civilians took place in the provincial capital in the days following the coup.

C. Work of the Commission

254. After a first visit on 29 November 1995, field work was begun on 29 January 1996 by two Commissioners, working unassisted, until the end of February when one was assigned other work. From then on it was carried on by one, working unassisted until mid March, when two investigators began assisting in the field.

255. The Commission's investigation in the Province of Gitega was hampered by the fact that, as has been reported above, the Commissioner in charge had to be shifted to other work and replaced by another Commissioner several times. For a period of two weeks in the month of April, work in the field had to be suspended because of serious troubles in the provincial capital and throughout the province.

256. The investigation was carried out in three communes: Bugendana, Giheta and Gitega. In the Commune of Gitega, however, due to the insufficiency of human resources, no field work could be carried out outside of the provincial capital, where witnesses were heard at four camps for displaced persons. In Bugendana, however, due to the security situation, the Commission could work in the field only after mid May, and even then its movements were restricted.

257. The Commission heard 145 witnesses, 119 Tutsis and 26 Hutus. Witnesses were heard on the collines, in religious centers, in seven camps for displaced persons, in the provincial capital, in the prison, and in Bujumbura.

D. Commune of Bugendana

a) Description of the commune

258. The Commune of Bugendana is adjacent on the north to the Commune of Mutaho, on the west to the Province of Muramvya, on the south to the Commune of Giheta, and on the west to the Province of Karuzi. It is crossed from south to north by the main unsurfaced road from the city of Gitega to Ngozi. Its Chef-lieu, Bugendana, on Colline Mukoro, is on the main road, 27 kilometers north of Gitega.

b) Claims and reports

259. According to the FIDH report, at the Chef-lieu Hutus started tying up Tutsis around 3 p.m. on Thursday, 21 October. They killed some men that day. On Friday and the following day, Tutsi men were hunted and killed in the surrounding areas. Tutsi homes were pillaged.

260. When the soldiers arrived, they killed some people and committed acts of pillage.

261. In the Parish of Mutoyi, 150 adult men were killed. 400 fleeing Tutsis who sought refuge in the church were not attacked. Hutus said they had been instructed to kill Tutsis by the authorities of the commune. Many Tutsis were saved by Hutu neighbors. The soldiers did not reach Mutoyi in that period.

262. According to a report from Tutsi sources, around 5 p.m., on Thursday, 21 October, a mob led by a local public employee attacked Tutsis around the Chef-lieu. At 7 p.m., massacres of Tutsis started and went on until the following Sunday.

c) Facts according to testimony

- Colline Mukoro

Chef-lieu

263. The Administrateur communal went around the different communes on a motorcycle during Thursday, 21 October. In the afternoon, a meeting of FRODEBU Hutus took place at the commune. The roads were blocked in the late afternoon and in the evening Hutus went out into the surrounding collines to gather Tutsi men and concentrate them in different points. No reliable testimony could be obtained regarding events at the Chef-lieu that evening.

264. The soldiers arrived on the following Monday. According to a Hutu witness, they killed many Hutus at the Chef-lieu and on the surrounding hills.

265. On the northern part of the colline, according to Tutsi witnesses, FRODEBU Hutus captured Tutsi men on Friday, 22 October, and gathered them in a house and then killed them.

- Colline Bitare

266. Colline Bitare is just to the south of the Chef-lieu. In its southern part, some six kilometers from the Chef-lieu, there is a "centre de négoce". According to Tutsi witnesses, Hutus blocked the roads in the afternoon of Thursday, 21 October. On Friday morning, they began to capture Tutsi men and gather them at different points to be killed. Some were killed beside the River Mubarazi. The hunt for Tutsi men went on until the arrival of the soldiers.

- Colline Mwurire

267. Colline Mwurire is about a kilometer from the Chef-lieu. It is large and with rugged terrain. According to Tutsi witnesses, Hutus led by local FRODEBU leaders cut the roads on the afternoon of Thursday, 21 October. In the evening, they captured Tutsi men and gathered them in several places. Some were killed that night, some the next morning. All through Friday, the hunt for Tutsi men went on. UPRONA Hutus were beaten, but not killed. In the following days, Tutsi women were also killed. On

Monday, a group of Tutsi women and children were gathered at the church on the colline, then taken out and killed.

- Colline Rwingiri

Kirimbi

268. On Colline Rwingiri, there is an educational and religious center on the main road at Kirimbi, some ten kilometers to the south of the Chef-lieu and seventeen to the north of the city of Gitega.

269. According to Tutsi witnesses, on the morning of Thursday, 21 October, the Administrateur communal arrived on a motorcycle and held a meeting at Kirimbi. Shortly after, led by local FRODEBU functionaries, Hutus cut the roads with felled trees. In the afternoon, they captured and tied up Tutsi men and youths from the surrounding collines and gathered them in Kirimbi. They locked them up in the hall of the school adjoining the church. One UPRONA Hutu was also captured.

270. Around 9 p.m., the Tutsis were taken out of the hall and killed. Some managed to escape in the dark. Several Tutsi witnesses testified that they had been saved by Hutus.

271. On Friday, the search for Tutsi males went on in the collines. Some were brought to Kirimbi and killed. Hutu witnesses confirmed that Tutsi men had been killed at Kibimbi on Thursday and Friday.

272. On Saturday 23 and the days following, Tutsi women and children who had not fled were killed.

273. The soldiers reached Kirimbi on Monday, and went on north toward the Chef-lieu. According to a Hutu witness, they killed many Hutus on that day and the following days.

- Collines Runyeri, Carire, Gitongo and Kibasi.

274. Collines Runyeri, Carire, Gitongo and Kibasi are in the eastern part of the commune. A secondary unsurfaced road crosses this part, going from the Chef-lieu to Kibimba in the Commune Giheta, to the southeast.

- Colline Runyeri

275. On Colline Runyeri, ten kilometers to the southwest of the Chef-lieu, according to Tutsi witnesses, Tutsi men were captured on Friday, 11 October, and gathered in a central place, where they were killed. The witnesses testified they had been saved by Hutus.

- Colline Gitongo

276. According to Tutsi witnesses, on Colline Gitongo, some fifteen kilometers to the southwest of the Chef-lieu, Hutus led by local FRODEBU leaders captured Tutsi males on Thursday, 21 October, held them on the road until evening, and then took them to the nearby River Kaniga to be killed. The following day they killed Tutsi women and children. Hutu witnesses confirmed that massacres of Tutsis had taken place on this colline and others, but denied having participated in them. Tutsi witnesses testified that they had been saved by Hutus.

- Colline Carire

277. According to Hutu witnesses, on Colline Carire, ten kilometers southwest of the Chef-lieu, Tutsi men were gathered on Thursday, 21 October, and held in a central place. In the evening, they were killed. Next day, Tutsi women and children were killed.

- Colline Kibasi

278. On Colline Kibasi, some twelve kilometers to the southeast of the Chef-lieu, according to Tutsi witnesses, the Administrateur communal of Bugendana arrived on a motorcycle on the morning of Thursday, 21 October, conferred with local FRODEBU leaders and left. Shortly after, the roads were blocked. Tutsi males were then captured, tied and put into a bus that had been stopped on the road. In the evening they were taken to the River Mubarazi and killed. Next day, Tutsi women and children were killed. Some witnesses testified that they had been saved by Hutus.

- Collines Gitora and Rushanga

279. Collines Gitora and Rushanga are in the southwestern part of the commune.

- Colline Gitora

280. On Colline Gitora, about 10 kilometers from the main road by secondary roads, there is an educational and religious center at Mugera. According to Tutsi testimony, Hutus led by a Hutu schoolteacher went to cut a bridge on the Ruvubu River, some six kilometers away, on Thursday, 21 October. According to Tutsi witnesses, Tutsis from the surrounding area took refuge at Mugera, under the protection of a priest, and were not harmed. In the collines around Mugera, according to Tutsi witnesses, Tutsi men were captured and killed by Hutus. On Saturday, an Army helicopter passed above Mugera, but did not land. The soldiers did not reach Gitora during the period under investigation.

- Colline Rushanga

281. Colline Rushanga is immediately to the east of Colline Gitora, some 13 kilometers from the main road. According to Tutsi witnesses, on Friday, 22 October, Hutus led by local leaders captured Tutsi men in Rushanga and killed them.

E. Commune of Giheta

a) Description of the commune

282. The Commune of Giheta is adjacent on the north to the Commune of Bugendana, on the west to the Province of Muramvya, on the south to the Commune of Gitega, and on the east to the Province of Karuzi. The main asphalted road from Bujumbura to Gitega crosses it from the southeast to the northwest for some twenty kilometers. A second main road, unsurfaced, crosses its eastern part from south to north, going from the city of Gitega to the city of Ngozi. It is divided into three zones, Kabanga, Giheta and Kiriba, situated in that order from west to east. The Chef-lieu is on Colline Giheta, about one kilometer from the main asphalted road and 12 kilometers from the provincial capital, without good road communication with most of the collines of the commune.

b) Claims and reports

283. According to the FIDH report, on Thursday, 21 October, Hutus led by FRODEBU leaders captured Tutsis and locked them in a depot at the Chef-lieu. They took some out in the evening and killed them. The rest barricaded themselves inside until the arrival of the soldiers. Other Tutsis were killed and thrown in ditches.

284. The soldiers arrived on the evening of the same day. On their arrival and during the following days, they hunted and killed many Hutus, and fired indiscriminately at the Hutu population in the surrounding collines.

285. That same Thursday, at Kibimba, Tutsi students captured by Hutus were locked in an unused gas station and burned to death.

286. The soldiers arrived at Kibimba early next morning. They massacred Hutus on the surrounded collines and pillaged the "centre de négoce".

287. Accounts from Tutsi sources generally coincide with the FIDH report regarding the massacres of Tutsis.

288. An account from FRODEBU admits that students were burned at Kibimba, and confirms the FIDH report regarding massacres of Hutus by the troops, adding that armored cars were used to shoot indiscriminately at the Hutu population.

c) Facts according to testimony

289. According to all witnesses, very early in the morning of Thursday, 21 October, the Governor of the province came along the main road from Gitega and gave orders to the local functionaries. The Administrateur communal, now in jail and being tried, testified that these instructions included felling trees to bar the roads, and that he discussed these instructions with the Chefs de Zone of Giheta and Kabanga.

- Colline Giheta

Chef-lieu

290. On the morning, while the roads were being blocked, a soldier who was on leave was captured and held, manacled, at the Chef-lieu.

291. According to testimony from Tutsi and Hutu witnesses, in the afternoon of Thursday, 21 October, Hutus led by the FRODEBU authorities captured Tutsi males from the collines near the main road and a nearby educational and religious center, as well as female Tutsi teachers and public employees, and gathered them at the Chef-lieu in the meeting hall. The Administrateur communal testified that this had been done for their protection.

292. Around 3 p.m., the Tutsis were transferred by groups, first the men and then the women, to a cinderblock building with iron doors that served as a depot for fertilizer and seeds, about 80 meters downhill from the meeting hall. They were marched down between two rows of armed Hutus who reportedly beat them on the way. They were locked in. The building has no windows, only some barred ventilation openings near the roof. After that time, no more Tutsis were brought to the depot.

293. According to the testimony of a Tutsi survivor, those that were caught and brought to the Chef-lieu after that time were killed and thrown into ditches.

294. According Tutsi witnesses, around 9 p.m., a first group was called out of the depot by name. Two witnesses who claimed to have survived say that they were taken to the bridge on the River Ruvironza, some 8 kilometers from the Chef-lieu. The women in the group were raped, killed and thrown in the river. The men were killed and thrown in the river. One witness, a man, who had been only wounded, managed to survive after being thrown into the river. Another, a woman, claims she was helped to escape by a former Hutu pupil. A second group was called out about an hour later. A witness who claimed to have survived after being severely wounded (she lost a hand and is covered with scars) said that the others were killed near the road, about one kilometer from the Chef-lieu. A third group was called out an hour after the second. Some members of this group were killed within hearing of the people inside the depot. When these people realized that the groups were being called out to be killed, they barricaded the door with fertilizer sacks. Around 2 a.m., through the ventilation holes, they could see a searchlight on the main road some 500 meters downhill. They shouted to call attention. The soldiers arrived shortly thereafter and told them to remain barricaded until morning. On the morning, the military took them out. Some survivors were found among those thrown in the ditches. It is reported that some bodies are still in the ditches. The Administrateur communal stated that he was not present when the killings took place, having gone home to rest after leaving express instructions for the safety of the captives. Next morning he fled in the direction of Colline Kanyinya, along a secondary dirt road that goes to Bugendana.

295. According to Hutu witnesses, the military carried out indiscriminate repression against Hutus on the main road, around the Chef-lieu, and at the educational and religious center. On Friday and the following days, they fired on Hutus with submachine guns and with the machine gun of an armored car.

- Colline Kibimba

296. The "centre de négoce" at Bubu on Colline Kibimba, Zone Kabanga, consists of a group of shops on the main asphalted road near the provincial border with Muramvya, and is some twenty kilometers distant from the city of Gitega.

297. Early in the morning of Thursday, 21 October, Hutus led by FRODEBU functionaries barred all roads by cutting trees.

298. Around midday, according to Tutsi and Hutu witnesses, the Hutus started rounding up Tutsi men from the surrounding countryside and the Tutsi teachers of the high school in the nearby religious center, and locking them up in a service station under construction in a group of shops at Bubu, on the main road from Muramvya to Gitega. They later also locked up the Tutsi students.

299. In the evening, burning gasoline was thrown in through the windows and burning wood and straw was thrown in through the roof. Many of the occupants were burned to death. Some witnesses claimed to have survived inside the building, and to have been rescued on Friday morning. Others claim to have escaped during the night through a window. Some show scars of serious burns. There are many contradictions between the witnesses regarding details.

300. A FRODEBU Hutu who was at that time a functionary, admitted that Tutsis had been taken hostage at Kibimba, and that there had been massacres of Tutsis on all 14 collines of Zone Kabanda. He claimed he had gone around the zone on Thursday, trying to calm the population.

- Colline Muremera

301. On Colline Muremera, about ten kilometers from the main asphalted road, trees and bridges were cut to bar the roads on the morning of Thursday, 21 October. Tutsi witnesses from different parts of the colline stated that Hutus, led by local FRODEBU leaders, started to capture and kill Tutsis around 8 a.m. the next day. Two witnesses stated they were saved by Hutu neighbors.

- Colline Kiriba

302. Colline Kiriba is on the eastern extreme of the commune, some three kilometers east of the unsurfaced road that goes from the city of Gitega to Ngozi. On Friday, 22 October, Hutus from the colline, accompanied by others from other collines, captured the Tutsi men and killed them. A witness testified to having been saved by a Hutu neighbor.

- Colline Rubarasi

303. According to a Tutsi witness, on Colline Rubarasi, on the border with Commune Gitega, the roads were blocked on Thursday, 21 October. On the morning of the next day, Hutus from Rubarasi and other collines held a meeting, then proceeded to seek out Tutsi men and kill them. His two brothers were killed.

- Colline Gwingiri

304. On Colline Gwingiri, next to the unsurfaced main road from the city of Gitega to Ngozi, a Tutsi witness stated that FRODEBU Hutus attacked and killed the Tutsis on Thursday, 11 October. She was badly wounded. She was saved by a Hutu neighbor, who also saved other wounded Tutsi women.

- Colline Nyarunazi

305. Events on Colline Nyarunazi, a remote colline far from both main roads, present a welcome contrast. Only one Tusti, married to a Hutu and with Hutu blood relations himself, lived on the colline on Thursday, 21 October. No violence took place in Nyarunazi that day. On the following day, groups of Hutus from other collines arrived, looking for Tutsis to kill. The Hutus hid the resident Tutsi and his family, as well as other Tutsis who arrived fleeing from the killings in the adjoining Commune of Bugendana, at the risk of their own lives. Both the residents of the colline and a surviving Tutsi from Bugendana who owed his life to them, testified to this. On Friday, corpses were seen floating on the River Ruvironza, which runs along the south of the colline.

F. Commune of Gitega

a) Description of the commune

306. The Commune of Gitega, with the provincial capital at its center, is adjacent on the north to the Commune of Giheta, on the west to the Province of Muramvya, on the south to the Communes of Gishubi and Makebuko, and on the east to the Provinces of Karuzi and Ruyigi.

b) Facts according to testimony

307. Since, for the reason referred to above, apart from one Hutu prisoner, only Tutsi witnesses from displaced persons camps were heard by the Commission, testimony is completely one sided. In view of this, only a general summary is given below.

308. According to Tutsi witnesses, on the Collines Bukwazo, Mirama, Mukanda, Murirwe, Nyakibingo, Rubamvyi and Songa, all of which are in the eastern part of the commune, Hutus led by local FRODEBU leaders blocked all roads on Thursday, 21 October. The capture of Tutsi men is reported on some of these collines. In all collines Tutsi men, women and children were killed by Hutus. Some of these killings began on Thursday evening, most on Friday and, in some collines furthest from the provincial capital, only on Saturday. The killings went on in some places for several days. A Hutu witness testified that he had seen no Tutsis killed on Colline Rubamvi, which is next to the main asphalted road to Rutana, but that soldiers had arrived on the road in the evening of Thursday, 21 October, and had fired indiscriminately at Hutus, using even the machine gun of an armored car.

VII. THE PROVINCE OF KIRUNDO

A. Geography and population

309. The Province of Kirundo is adjacent on the north and west to Rwanda, on the south to the Provinces of Ngozi and Muyinga, and on the west to the Province of Muyinga. It is divided into seven communes. It has a surface of around 1,711 square kilometers. The provincial capital, Kirundo, which is hardly more than a village, is located near the center of the province. A main asphalted road reaches the provincial capital from Ngozi. The province had a population of around 407,103 in 1990.

B. Claims and reports regarding events in the province

310. According to the FIDH report, violence in the province was comparatively limited, since the population remembered the massacres that had taken place in Commune Ntega in 1988, and people took flight to places of refuge. On the morning of Thursday, 21 October, the Governor met the Administrateur communal of Busoni. He was deposed in the afternoon by the military commander, who followed orders from Bujumbura.

C. Work of the Commission

311. For the reasons stated elsewhere in this report, field work in the Province of Kirundo had to be suspended shortly after it began. Only three working days were spent in the province. In the course of those three days, two camps for displaced persons were visited in the Communes of Kirundo and Vumbi. 31 witnesses were heard, some of them displaced Hutus or Twas that had been affiliated with UPRONA. No other field work was accomplished.

D. Communes of Kirundo and Vumbi

a) Description of the communes

312. The Commune of Kirundo has the provincial capital at its center. The Commune of Vumbi is located to the south of the Commune of Kirundo and crossed by the main highway from Ngozi. Its Chef-lieu, Vumbi, is on this road, at a distance of nine kilometers from the provincial capital.

b) Claims and reports

313. According to a document reflecting Tutsi views, 103 Tutsis were killed in the Commune of Kirundo, under the leadership of the FRODEBU authorities and leaders. In the Commune of Vumbi, the massacre of Tutsis started on Thursday, 21 October, and went on until the next Sunday. Lists of victims and authors were given.

c) Facts according to testimony

314. As, for the reason stated above, the testimony heard by the Commission provides a one sided view of events in the period under investigation, only a general summary is given below.

315. According to Tutsi and displaced Hutu and Twa witnesses, on Collines Cumba, Gakana, Gihosha, Mataka, Mutara, Mwenya, Rambo, and Rugero of the Commune Kirundo, and on Collines Kabuye, Kavumu, Mutoyi, Nyarikenke, Rugeri and Vumbi of Commune Vumbi, the local Hutu population, led by local FRODEBU leaders, blocked all roads on the morning of Thursday, 21 October. On some of these collines, Tutsis and UPRONA Hutus were taken hostage. Killing of Tutsis and UPRONA Hutus and Twas began in some collines on Thursday evening, after hearing on Radio Rwanda that President Ndadaye had been killed, in others on Friday. The killing went on for several days.

VIII. THE PROVINCE OF MURAMVYA

A. Geography and population

316. The Province of Muramvya is adjacent to the following Provinces: Kirundo to the north, Bubanza and Bujumbura to the west, Gitega to the east, and Bururi to the south. It is situated in the central highlands, with a steep, mountainous region to the west on the eastern slopes of the range dividing the Nile and Zaire basins. It is crossed by two important main paved highways: the road from Bujumbura to Gitega, which crosses it from west to east around the middle, passing through the provincial capital, the city of Muramvya, 48 kilometers distant from Bujumbura. The road to Kayanza and Rwanda forks out from this road in a northerly direction at Bugarama, 13 kilometers west of the city of Muramvya. Another main road, unsurfaced, that also goes from Bujumbura to Gitega, crosses the southern part of the province from west to east. On it, at Mwaro, there is an Army garrison. The province has an extension of around 1,530 square kilometers and, according to the 1990 census, had at the time a population of 440,000 inhabitants. No figures are obtainable regarding the proportion of Hutus to Tutsis, but in the southern and some eastern parts of the province the proportion of Tutsis is well over 15 percent, which is the estimated figure for the country as a whole. Muramvya is divided into eleven communes. The three communes investigated by the Commission, Kiganda, Mbuye and Rutegama are all situated in the northwest sector of the province. The southern part of the province was, according to reports, comparatively unaffected by massacres.

B. Claims and reports regarding events in the province

317. The Commission received several documents referring to events in Muramvya during the period under investigation, some covering the province as a whole, some dealing with specific localities. Some contained lists of victims or of perpetrators. Accounts were submitted by the two main political parties, UPRONA and FRODEBU and related groups, by Burundian human rights organizations, and by various associations claiming to represent victims and survivors.

318. According to the FIDH report, the Governor of Muramvya, a Tutsi belonging to FRODEBU, stated that he was awakened, at 2.30 a.m., on Thursday, 21 October, by a telephone call from the Governor of Gitega, who informed him that a coup d'Etat was underway. After trying unsuccessfully to contact the higher authorities in Bujumbura by telephone, he again telephoned the Governor of Gitega and they agreed to take action to have the roads blocked. To this end, he set out at 3 a.m., on the main highway that links Bujumbura to Gitega, and went first to Rutegama then, in the opposite direction, to Bugarama, stopping at various points along the way to give instructions. Back in the provincial capital, the Governor remained in his office, talking to local officials. The local military officers did not support the coup d'Etat. In the afternoon, warned that soldiers had arrived from Bujumbura with orders to kill him, he went into hiding until 26 October. He states that, although political and ethnic tensions were high, no killings took place in the provincial capital on that day.

319. Claims and reports regarding events in the communes that were investigated are referred to in each case.

C. Work of the Commission

320. After a first mission in November 1995, field work by the Commission went on continuously in the province from 27 February until 31 May 1996, with some interruptions caused by the repeated closing of the road from Bujumbura. 285 witnesses were heard, 169 Tutsis and 116 Hutus, including prisoners in the local prison and in Bujumbura. All the camps for displaced persons and most of the collines in each investigated commune were visited.

D. Commune of Kiganda

a) Description of the commune

321. The Commune of Kiganda is adjacent on the north to the Commune of Mbuye, on the west to the Commune of Muramvya, on the south to the Communes of Rusaka and Ndava, and on the east to the Commune of Rutegama. The main asphalted highway from Bujumbura to Gitega runs along its northern border, on the right bank of the River Mubarazi. It is divided into two zones: Gatabo to the north and Kiremba to the south. The Chef-lieu is about eight kilometers south from the main road, and some 40 kilometers from the provincial capital. The Army garrison at Mwaro is some 23 kilometers to the south, by secondary unsurfaced road.

b) Claims and reports

322. According to a report from SONERA and from an association claiming to represent victims, Tutsis were attacked and killed by Hutus on Thursday, 21 October, and the days following. The reports do not contain a detailed description of events, but list alleged perpetrators and victims. Both reports refer to Zone Gatabo, in the north. No massacres are reported in Zone Kiremba.

323. In the account published by FRODEBU it is reported that, on Friday, 22 October, and the following days, Hutus were invited to meetings by leading Tutsi figures and then fired upon by the military. It is also claimed that attacks on civilians by the military went on for a month. The account gives the names of some authors and victims of these acts.

c) Facts according to testimony

- Chef-lieu

324. According to all testimony, no violence took place in the Chef-lieu on Thursday, 21 October. During the day, fleeing Tutsis from the neighboring Commune of Rutegama began to arrive. A detachment of soldiers from the garrison at Mwaro, to the south, arrived in the evening. During the next day, fleeing Tutsis from Rutegama continued to arrive at the Chef-lieu. On Saturday, 23 October, two Hutus were killed by the troops, and Hutus began to flee the colline.

- Colline Gahweza

325. On Colline Gahweza, some 8 kilometers to the south of the Chef-lieu, no attacks on Tutsis were reported. On Saturday, 23 October, and the following days, according to Hutu witnesses, armed Tutsi civilians from the colline, together with Tutsis from other collines, carried out attacks against Hutus, killing men, women and children.

- Other collines to the south of the Chef-lieu

326. According to all witnesses, no violence against Tutsis took place in the collines situated to the south of the Chef-lieu.

- Colline Murambi

327. Colline Murambi is bordered on the north by the Mubarazi River and the main asphalted road. Gatabo, Chef-lieu of Zone Gatabo, is situated on this road. The rest of the colline to the south consists of a steep hill.

328. The Governor of Muramvya stopped at Gatabo in the early hours of Thursday, 21 October. Shortly after his passage, Hutus led by local FRODEBU leaders began to fell trees and cut bridges to block the roads. Tutsi males were gathered and made to help them. Some of these Tutsis returned home on the same day, while others were held at the Chef-lieu until Saturday, 23 October, when they were released unharmed.

329. On the hill to the south of Gatabo, Tutsis were not harmed during Thursday, 21 and Friday, 22 October. On Saturday, 23 October, however, Hutus who had participated in massacres in the neighboring Commune of Rutegama, and who had arrived at Murambi fleeing the soldiers, led local Hutus in gathering the Tutsis in the house of a cooperative and then taking them to the Mubarazi River to be killed.

- Colline Nyagisozi

330. On Colline Nyagisozi, about three kilometers to the west of Gatabo, according to Tutsi witnesses, Hutus led by the Chef de zone took Tutsi males from their homes and killed them. Some were taken to the Mubarazi River to be killed.

- Colline Kivyeyi

331. On Colline Kivyeyi, about six kilometers to the southwest of Gatabo, according to Tutsi witnesses, Tutsi males were gathered by Hutus on Thursday, 21 October, and made to help them block the roads. The Tutsis were held captive through the night, and the next day taken to the Mubarazi River and killed there. A Hutu witness denied that Tutsis had been killed on the colline.

- Colline Martyazo

332. On Colline Martyazo, three kilometers to the south of Gatabo, according to Tutsi witnesses, on 23 October, Hutus, led by the Chef de colline, gathered Tutsi males, took them to the Mubarazi River, killed them, and then returned to pillage and burn their homes.

- Colline Kanegwa

333. On Colline Kanegwa, five kilometers to the south of Gatabo, according to Tutsi witnesses, both Hutus and Tutsis participated in cutting the roads on Thursday, 21 October. That night, however, Hutus surrounded the homes of Tutsis to prevent them from fleeing. The next day, the Tutsi men, women and children were captured and taken to the UPRONA office of the colline. The men and children were taken to a nearby river and killed. The women were raped and then killed.

E. Commune of Mbuye

a) Description of the commune

334. The Commune of Mbuye is adjacent on the north to the Province of Kayanza, on the east to the Province of Gitega, on the south to the Communes of Rutegama, Kiganda and Muramvya, and on the west to the Commune of Muramvya. Its Chef-lieu is situated near the northern border of the commune on the Colline Teka, some ten kilometers by unsurfaced road from the main asphalted that goes to Kayanza, and some 30 kilometers from the city of Muramvya.

b) Claims and reports

335. An account submitted by an association claiming to represent victims and survivors relates that, on Thursday, 21 October, the Administrateur communal held a meeting at the Chef-lieu at 10 a.m., with other FRODEBU leaders, after which groups of Hutus began to block the roads and prevent Tutsis from moving around freely.

336. On Friday afternoon, Tutsis were attacked by armed Hutus led the Chef de zone in Zone Gasura. The killing of Tutsis went on until Saturday.

337. Accounts submitted by another association and by SONERA agree with this description of the events.

338. A FRODEBU account states that on Thursday, 21 October, on Colline Kirembera, UPRONA Tutsis, armed with firearms, killed Hutu residents and pillaged their belongings.

339. On Sunday, 24 October, military units arrived, accompanied by Tutsi UPRONA students, and killed Hutus and destroyed their property. At the end of November of the same year, another wave of military raids began on the Collines of Buyaga, Teka, and Bigwana, causing numerous Hutu victims, some of which were buried in a mass grave in the marshes near Nyanza.

c) Facts according to testimony

- Chef-lieu

340. At the Chef-lieu, on Colline Teka, besides the office of the Administrateur communal, there are a "centre de négoce", consisting of some shops and a marketplace, a school and a church. A few policemen, armed with revolvers, guarded the Chef-lieu on Thursday, 21 October. According to Tutsi witnesses, that day, very early in the morning, the residents of Colline Teka heard from the Administrateur communal that President Ndadaye had been taken by the military. The Administrateur communal is reported to have spread this message through the surrounding collines, riding a motorcycle, taking the road leading to Kibumbu, passing by Buyaga, Bigwana, Kirika, and Kibumbu. Chefs de zone and chefs de secteur are also reported to have gone through the collines in the Zone Gasura, passing through the Colline Buhungura. In the course of the day, bridges were cut and trees felled to block the roads.

341. In the afternoon, the functionaries and teachers gathered together and collected into two groups according to ethnic origin. A group of young Hutu, reportedly organized by a schoolmaster, arrived, armed with machetes and clubs, and patrolled the colline until evening.

342. On Friday morning, a group of young armed Hutus arrived from the neighboring Colline of Buyaga and began attacking the Tutsis in the vicinity. There was a confrontation with the Tutsis at the Chef-lieu in which the local judge, a Tutsi, was attacked and wounded and was brought to a nearby hospital. In the afternoon, a Tutsi school teacher by the name of Basile was killed. The local police attempted to maintain order and even fired their weapons into the air, but were too few to be effective. Later in the afternoon another Tutsi was killed at the Chef-lieu.

343. A group of Tutsis that included women, children and old men sought refuge in the parish church. Some of the Tutsi teachers and functionaries managed to flee that night to the provincial capital.

344. On Saturday, 23 October, the killing of Tutsis continued. A group of armed Hutus arrived, menaced the priests and searched the church, but did not search the parish house where Tutsis were hidden.

345. On the other side of the Colline Teka, young armed Hutus are reported to have gathered Tutsi men in an eucalyptus grove and killed them, leaving their bodies on the ground. Women and children were not killed.

346. According to military sources, a patrol managed to reach the Chef-lieu on Friday, 22 October, and found armed Hutus congregated before the church, but they dispersed peacefully. The military then set up a camp for displaced Tutsis on the neighboring Colline Mbuye. They returned to the Chef-lieu on the following days without incidents. This account was confirmed by independent witnesses.

- Colline Bigwana

347. Colline Bigwana lies about 5 kilometers to the east of the Chef-lieu. On Thursday, 21 October, Hutus cut trees to block the roads. They beat a soldier who was on leave and prevented him from leaving the colline.

348. No deaths were reported to have occurred on the colline on Friday.

349. On Saturday, Tutsi men, women and children that had gathered in a single group were attacked by Hutus. Many were killed, including the soldier who had been beaten on Thursday. Attacks on Tutsis continued on Sunday and Monday. Houses belonging to Tutsis were burned. It was reported that attacks on Tutsis were instigated by Hutus from the Commune of Rutegama, who arrived in Bigwana on Friday evening.

- Colline Buhangura

350. On Colline Buhangura, about four kilometers south of the Chef-lieu, according to Tutsi witnesses, Hutus killed the Tutsi men and male youths on Friday, 22 October. Some of the killers came from the neighboring Colline Mubuga. Hutu witnesses present the events as a violent confrontation between the two ethnic groups, due to Tutsi provocations, that began on Thursday, forcing many Hutus to flee, and that went on until the arrival of the military on Sunday, although there are no reports of Hutu victims during that time. They add that the soldiers shot at the population indiscriminately, even killing Tutsis.

- Colline Buyaga

351. Colline Buyaga is located some 3 kilometers east of the Chef-lieu.

352. According to Hutu witnesses, there were no killings on the colline on Thursday and Friday, although some Tutsi homes were burned by Hutus from the Commune Rango.

353. According to military sources, a patrol of 24 men coming from the Chef-lieu on Saturday, 23 October, had to open fire on Hutus defending a roadblock, killing three persons, including a woman. A Hutu witness stated, however, that the military called the Hutus to a meeting and then shot into the crowd. He claimed more than a hundred Hutus had been killed and showed the Commission a site, which he alleged is a mass grave where human bones were lying on the surface.

- Colline Kibumbu

354. On Colline Kibumbu, about eight kilometers to the northeast of the Chef-lieu, according to Tutsi witnesses, the Administrateur communal arrived on a motorcycle on the morning of Thursday, 21 October, and gave instructions to local Hutus to block the roads. In the evening, Tutsis fleeing from the neighboring Colline Ngezi/Nete started arriving on the Colline Kibimbu. On Friday evening, Tutsis were attacked by Hutus and many were killed.

355. According to a Hutu witness, on that day an armed confrontation began between Hutus and Tutsis from the colline, who had been reinforced by Tutsis from another colline. The confrontation went on until Sunday, 24 October, when the soldiers arrived and killed 18 Hutus. These witnesses, however, could identify no Hutu victims of the alleged confrontation.

356. According to military sources, a military patrol went to Kibumbu on Wednesday, 27 October, to search for weapons. Hutu witnesses testified that on that day, the military opened fire on a group of Hutus, killing many.

- Colline Ngezi/Nete

357. On Colline Ngezi/Nete, some ten kilometers east of the Chef-lieu, according to Tutsi witnesses, the Administrateur communal visited the colline on Thursday, 21 October, and shortly afterwards the Hutus blocked the roads with felled trees. The Tutsis gathered in a group for their own protection and were not attacked. The Hutus, led by a local FRODEBU leader, pillaged and burned the houses of the Tutsis. A Hutu witness ascribed these acts to people coming from other collines.

- Colline Taba

358. No Tutsi witnesses to events on the Colline Taba, ten kilometers to the east of the Chef-lieu, were heard. A Hutu witness who had fled the colline on Thursday, 21 October, testified that upon his return on the following Sunday, bodies of Tutsis were lying around and the houses belonging to Tutsis had been burned. Hutu witnesses claim to have been elsewhere or to have stayed home, and deny having witnessed any violent acts. They report that the military killed many Hutus upon the arrival on the colline some days later.

- Colline Masama

359. On Colline Masama, about eight kilometers to the south of the Chef-lieu, according to Tutsi witnesses, in the evening of Thursday, 21 October, Hutus captured Tutsi men in their homes, took them to the River Mubarazi nearby and killed them there. The next day, Hutus, joined by some Twas, raped Tutsi women and killed them, together with their children. Some were burned to death inside houses. A site said to be a mass grave was shown to the Commission. Some Hutus helped Tutsi neighbors to escape.

F. Commune of Rutegama

a) Description of the commune

360. The Commune of Rutegama borders on the north with the Commune of Mbuye, on the west with the Commune of Kiganda, on the south with the Commune of Ndava, and on the east with the Commune of Ndava and the Province of Gitega. The main highway from Bujumbura to Gitega crosses it from west to east near its northern border. The Chef-lieu is located on this road at a distance of 30 kilometers from the provincial capital, and 35 kilometers from the city of Gitega.

b) Claims and reports

361. According to the FIHD report, the Governor admitted that Tutsis had been taken hostage during Thursday, 21 October, gathered at the Chef-lieu and killed in the evening, and that women and children had been killed the following day, estimating the number of dead at 200. The report states that Tutsi sources estimate the number of dead at over 1,000 and medical sources confirmed that nearly all Tutsis in the commune had been killed. Tutsi witnesses state that the Administrateur communal participated in these acts.

362. The report adds that on Sunday, 24 October, the military arrived from Mwaro and Gitega and for several days carried out a sweep of the hill, shooting at the population with heavy machine guns and killing and wounding hundreds. They ransacked and burned the shops at the Chef-lieu.

363. According to an account submitted by an association claiming to represent Tutsi and UPRONA Hutu victims, the Governor of Muramvya came in the early hours of Thursday, 21 October, and gave instructions to the Administrateur communal and the local FRODEBU leader. At daybreak, the Administrateur communal went around the commune, giving instructions to the local functionaries. Shortly afterwards, trees were felled and bridges destroyed to block the roads and a crowd of armed Hutus, including functionaries and Hutu militias, congregated at the Chef-lieu. The Administrateur communal then invited Tutsis and UPRONA Hutus to gather at the Chef-lieu for a meeting of reconciliation. Those who came were tied up at 2 p.m. The men were put in the communal hall and cells, the women in an office. The men were killed that same day, the women the next morning. The bodies were thrown into latrines or buried in mass graves.

364. On Colline Munanira, a group of Tutsi men, women and children were gathered by Hutus and put in the primary school at Kirehe. The Hutus then removed tiles from the roof and threw in lighted wood, burning some to death and asphyxiating others. Bodies were mutilated and thrown into the school's latrines.

365. A report submitted by SONERA generally confirms these allegations and assigns direct responsibility to the Governor.

366. According to a FRODEBU report, 465 of its members were killed in the repression, and houses were burned and goods pillaged throughout the commune.

c) Facts according to testimony

- Chef-lieu

367. All sources agree that the Governor came to the Chef-lieu in the early hours of Thursday, 21 October, that he met there with the Administrateur communal, and that in the morning roads were blocked throughout the Commune.

368. A group of young Hutu members of a FRODEBU militia (INZARAGUHEMUKA) from a nearby colline, armed with machetes, is reported to have come to the Chef-lieu on Thursday morning, and to have conferred with the Administrateur communal before returning to their colline. According to accounts of Tutsi witnesses, generally confirmed by some Hutu witnesses, Tutsis from the Chef-lieu and the surrounding hills were gathered and put in the offices. Men were tied and put in the communal hall and detention cells, while women and children were put in a storage house. In the afternoon, the men were taken out and killed. Next morning, the women and children were killed.

369. Some FRODEBU Hutus that have been accused of participating in these events admit being present during the morning, but testified that they left when they saw the situation deteriorating.

- Colline Munanira

370. On Colline Munanira, according to Tutsi witnesses, Tutsi men, women and children were gathered and locked by Hutus in a schoolhouse in the evening of Thursday, 21 October. The following morning, the roof of the schoolhouse was set afire and all those inside were killed as they tried to escape. Hutu witnesses denied having been present at these events.

371. The Commission heard testimony from several persons cited as the perpetrators of this massacre; these persons denied having seen or having taken part in this massacre.

372. The Commission was prevented from visiting these sites during its investigation due to continuing insecurity in the area.

- Colline Nyarunazi

373. On Colline Nyarunazi, directly to the north of the Chef-lieu, according to Tutsi witnesses, Hutus from the colline, assisted by Twas, gathered and tied up the Tutsis and took them to the Chef-lieu, where they were later killed. Tutsis were also killed at the schoolhouse of Kirehe.

- Colline Cumba

374. On Colline Cumba, two kilometers from the Chef-lieu on the main road, according to Tutsi witnesses, Tutsi males were gathered by Hutus on the morning of Thursday, 21 October, and taken to the Chef-lieu, where they were later killed. On Friday the remaining Tutsi men, women and children who did not manage to escape were killed.

375. According to Hutu witnesses, soldiers from Mwaru arrived on Saturday, 23 October, and fired on Hutus. A Hutu witness stated that they again killed Hutus four days later.

- Colline Nkonyovu

376. On Colline Nkonyovu, five kilometers to the northwest of the Chef-lieu on the main highway, according to Tutsi witnesses, Tutsi men were invited by Hutus to accompany them on patrols. They were then taken to the Chef-lieu, where they were later killed. Many of the remaining Tutsis gathered on a bar on the main highway. There, they were attacked by Hutus, but defended themselves and managed to escape to Gatwaro, in the Commune of Kiganda, some two kilometers to the northwest on the highway.

377. On Saturday, 23 October, soldiers with armored cars coming from the Chef-lieu, opened fire on Hutus along the highway, killing many. The soldiers again killed Hutus on the following Monday.

- Colline Bubanda

378. On Colline Bubanda, directly to the west of the chef-lieu, according to a Tutsi witness, Tutsi men were captured and taken to the Chef-lieu on Thursday, 21 October.

- Colline Bupfunda

379. According to Tutsi witnesses, Colline Bupfunda, five kilometers to the west of the Chef-lieu, was visited early in the morning of Thursday, 21 October, by the Administrateur communal. On the morning

of that day, the Tutsis were attacked by Hutus from the colline, aided by Hutus from the Colline Bubanda. Hutu witnesses from the colline testified they had been elsewhere when these events took place or that they had seen nothing.

380. The Commission heard several Hutus named by Tutsi witnesses as having taken part in the massacres of Tutsis. But in one case, the witness denied that he was present on the Colline Bupfunda at the time of these killings. In addition, the Commission determined that the Hutu witnesses of this colline avoided speaking of events that took place during the first three days after the assassination, 21-24 October. They claim that they saw nothing or that they had fled the first day.

- Colline Nyarukere

381. On Colline Nyarukere, three kilometers southwest of the Chef-lieu, according to Tutsi witnesses, Hutus captured Tutsi men on Thursday, 21 October, and took them to the Chef-lieu, where they were killed. In the evening Tutsi men, women and children were killed in their homes and their bodies were thrown into latrines. Some Tutsi women were raped by Hutus and Twas before being killed. Killings of Tutsis continued until Sunday, 24 October.

- Colline Nyakararo

382. On Colline Nyakararo, five kilometers to the southwest of the Chef-lieu, according to Tutsi witnesses, Hutus led by local FRODEBU leaders, started killing Tutsi men, women and children in the afternoon of Thursday, 21 October. They went on searching for escaped Tutsis and killing them until the following Saturday.

383. According to Hutu witnesses, soldiers arrived on Sunday, 24 October, accompanied by Tutsis from Colline Nyakararo, and killed many Hutus.

- Colline Muninya

384. On Colline Muninya, about three kilometers to the southwest of the Chef-lieu, according to Tutsi witnesses, Hutus from the colline, aided by other Hutus from neighboring collines began killing Tutsis in their homes, in the afternoon of Thursday, 21 October.

- Colline Nyamitwenzi

385. On Colline Nyamitwenzi, about five kilometers to the west of the Chef-lieu, according to Tutsi witnesses, Hutus captured Tutsi men in their homes and took them to the Chef-lieu, where they were killed. Attacks on Tutsis of both sexes and all ages went on until the following Monday. Some Tutsis managed to survive. Hutus from the Chef-lieu took part in the attacks. The military arrived two weeks later and rescued survivors.

- Colline Murinzi

386. On Colline Murinzi, about eight kilometers to the southwest of the Chef-lieu, several soldiers who happened to be at home were arrested on Thursday, 21 October. Next morning, a group of Hutus led by a local FRODEBU leader attacked Tutsis in their homes. Killing of Tutsis went on until Saturday, with the participation of Hutus from Colline Nyakararo.

- Colline Mushikamo

387. On Colline Mushikamo, about ten kilometers southwest of the Chef-lieu, according to Tutsi witnesses, in the afternoon of Thursday, 21 October, the FRODEBU authorities arrested ten Tutsis and held them in a cell in the Zone Mushikamo until they were freed by soldiers arriving on the next day. Other Tutsi witnesses testified that over fifty Tutsis were killed on the colline by Hutus.

- Colline Gashingwa

388. On Colline Gashingwa, about five kilometers to the south of the Chef-lieu, according to Tutsi testimony, Hutus led by the local FRODEBU functionaries took Tutsi males from their homes on Thursday, 21 October, and killed them on the route to Rutegama. Attacks on the remaining Tutsis continued until the following Monday, with the participation of Hutus and Twas from neighboring collines. The military arrived two weeks later and rescued Tutsi survivors.

IX. THE PROVINCE OF NGOZI

A. Geography and population

389. The Province of Ngozi is adjacent on the north to Rwanda, on the west to the Province of Kayanza, on the south to the Provinces of Gitega and Karuzi, and on the east to the Provinces of Kirundo and Muyinga. It is situated on the central highlands, with steep hills and wide river valleys. The River Kanyaru runs along the Rwandese border. Ngozi is crossed from west to east around the middle by the main asphalted highway that goes from Bujumbura and Kayanza to Muyinga and Kirundo. Ngozi is divided into seven communes. Its capital is the city of Ngozi, with around 5,000 inhabitants, Burundi's third largest city, 136 kilometers from Bujumbura. It has an area of around 1,468 square kilometers and had, in 1990, a population of about 482,246 . At present, practically all rural Tutsis live in camps for displaced persons, protected by the Army. The capital has a predominantly Tutsi population. There are several large refugee camps for some 20,000 Rwandese Hutus who fled after the 1994 genocide in that country, cared for by international organizations. In October 1993, a large number of Tutsi Rwandese refugees, who have since returned to their country, lived throughout the province.

B. Claims and reports regarding events in the province

390. According to the FIDH report, news of the coup d'Etat were broadcast by Radio Rwanda around 6 a.m., on Thursday, 21 October. The Governor of the province, having heard of the coup shortly before, went to visit some communes, including Gashikanwa and Kiremba. He returned in the afternoon, asking the population to demonstrate against the coup. In the afternoon of that day, a helicopter from Bujumbura brought a soldier from the airborne troops who conferred with the local military. The Governor was placed under house arrest around 5.30 p.m. Upon being reinstated on Saturday afternoon, he toured the province the following days in an effort of pacification.

391. The city of Ngozi, with two military camps, one for the Army and one for the Gendarmerie, served as a refuge for fleeing Tutsis. During the days following the coup, Tutsi civilians killed many Hutus openly, in the presence of the military. The military themselves are reported to have killed Hutus in the city.

C. Work of the Commission

392. Field work started on 23 February, and went on until 28 May. It was hampered by the fact that the Commissioner in charge worked alone until two investigators were assigned to the province in April and had at various times to do the field work in other provinces concurrently. Due to lack of resources and administrative delays at headquarters, permanent quarters in the provincial capital could only be obtained at the end of April. Until then, field work had to be carried on through day trips. Since road travel was limited to daylight hours and the trip from Bujumbura to Ngozi takes nearly three hours, the time available for field work was severely restricted. The road was closed on several occasions, due to security or other reasons. The Commission investigated four communes, hearing witnesses on collines, in five camps for displaced persons, in the provincial capital, in the prison and in Kenya. It heard 127 witnesses, 88 Tutsis, 34 Hutus and 5 Twas.

393. The investigation of the Commune of Ruhororo was limited. Areas adjoining the commune were the scene of frequent guerilla and Army activity during the Commission's stay in Burundi. For this reason, visits were limited to the camp for displaced persons in the Chef-lieu. Even there, after a demonstration took place against the United Nations in Bujumbura, further cooperation was denied to the Commission by the witnesses who had been contacted by the investigators. Testimony regarding events in Ruhororo was heard in the camp and from prisoners and other witnesses in the city of Ngozi.

D. Commune of Kiremba

a) Description of the commune

394. The Commune of Kiremba borders on the north with the Commune of Marangara, on the west with the Communes of Nyamurenza and Gashikanwa, on the south with the Commune of Kiremba, on the east with the Provinces of Muyinga and Kirundo. The main asphalted road from the city of Ngozi to Muyinga crosses it around the middle from west to east. The Chef-lieu is some ten kilometers from the main road by an unsurfaced road. The unsurfaced road reaches the main road at a point 20 kilometers distant from the city of Ngozi. As a result of the events of 1993, the Tutsis remaining in the commune are at present in two camps, one at the Chef-lieu and the other at Gakere, on the main road, 30 kilometers from the city of Ngozi. The collines are inhabited only by Hutus.

b) Claims and reports

395. According to the FIDH report, following the coup hundreds of people were massacred in Kiremba. On Collines Cayi, Ciri and Mufigi alone, there were more than 400 killed. The Administrateur communal gave orders to block the road after a visit from the Governor on the morning of Thursday, 21 October. Hutus started killing Tutsis that day after a late broadcast from Radio Rwanda. A Tutsi family was burnt alive on Colline Kidunda. Thirteen other families were gathered and massacred before the Lycée at the Chef-lieu.

396. The soldiers arrived at the Chef-lieu on Friday, 22 October, and killed several people. They then attacked Colline Gakere and killed 19 Hutus. On Colline Musasa, a mass grave was filled with their victims. Many Hutus were killed and left unburied around the camp that was set up for displaced Tutsis.

397. According to an account from a Tutsi association, in the Commune Kiremba, all Tutsis, except a few who managed to escape, were killed.

398. According to an account reflecting FRODEBU views, in spite of efforts by the Administrateur communal, who toured the collines to calm the people, some enraged Hutus massacred Tutsi neighbors during the night of 21 October, especially in the Zones Musasa and Gakere, as a reaction to hearing shots from the soldiers.

399. When the soldiers arrived the next day, they started to hunt and kill Hutus, especially FRODEBU members. The hunt went on into November.

400. According to a complaint by a Hutu, the Administrateur communal was tortured and killed in the marketplace by soldiers on Friday, 27 October, while Tutsis cheered. The soldiers also massacred Hutu women and children who had taken refuge in the hospital.

c) Facts according to testimony

- Colline Kiremba

Chef-lieu of Kiremba

401. A meeting that was to take place in the Chef-lieu on the morning of Thursday, 21 October, had been organized by the Governor of the province, a FRODEBU Tutsi. The Governor, having received news of the coup, arrived at the Chef-lieu on that day around 6 a.m., to call the meeting off. He had a meeting with local FRODEBU functionaries and party leaders. By that time, Radio Rwanda had already informed that there was a coup in Bujumbura.

402. Although there was considerable excitement, and the local authorities toured the collines, no acts of violence took place until the afternoon.

403. Around 3 p.m., the Governor returned and again had a meeting with the local authorities and FRODEBU party leaders. After asking the population to go to Ngozi to demonstrate in defense of democracy, he left again.

404. Around 5 p.m., the FRODEBU Hutus started cutting trees to bar the roads. Some shops in the center were ransacked.

405. In the evening, Radio Rwanda informed that President Ndadaye had been killed.

406. According to Tutsi witnesses, FRODEBU Hutus captured 14 Tutsi men in the Chef-lieu in the evening. Their bodies were found next day in a nearby field. One survived, badly wounded.

407. The military arrived on Friday morning. According to a Hutu witness, they shot at the Hutu population. Many Hutus fled to Rwanda.

408. Several of the witnesses heard at the camp in the Chef-lieu appeared to have been instructed to incriminate the former Governor in the massacres. When questioned, their statements contained numerous contradictions on many relevant facts.

- Colline Kibuye

409. Tutsi witnesses from Colline Kibuye, some five kilometers to the east of the Chef-lieu, stated that Tutsis were captured by Hutus, Thursday afternoon, and gathered in several places. After hearing on

Radio Rwanda in the evening that President Ndadaye had been killed, they were killed by the Hutus. A woman testified that she had been raped, then wounded and left for dead. Some survivors stated that they owed their lives to Hutu friends.

410. A Tutsi and a Hutu witness testified that the soldiers, who arrived on Friday morning, shot indiscriminately at the Hutus.

- Colline Gatwaro

411. Several witnesses, of which one Hutu, from Colline Gatwaro, some 4 kilometers to the west of the Chef-lieu, reported widespread killing of Tutsis on Thursday evening. A woman reported having been raped, together with other Tutsi women who were later killed.

- Colline Ngeramigongo

412. Tutsi witnesses from Colline Ngeramigongo, some 4 kilometers southwest of the Chef-lieu, but reachable only through a narrow dirt road, state that Hutus killed the Tutsis on Thursday night. A witness who is the daughter of a Tutsi father and a Hutu mother states that, having been wounded, she was saved by her mother and her Hutu relatives.

- Collines Masasu and Musumba

413. Tutsi witnesses from the Collines of Masasu and Musumba, on the unsurfaced road from the Chef-lieu to the asphalted road, stated that the Administrateur communal of Kiremba drove along the asphalted road, accompanied by other FRODEBU leaders, in the afternoon of Thursday, 21 October. Some time later, trees were cut to bar the roads. In the evening, Tutsis were attacked by Hutus.

- Colline Kibande

414. A Tutsi witness from Colline Kibande, 23 kilometers from the city of Ngozi on the main highway, stated that she was attacked in her house in the early evening of Thursday, 21 October. Her entire family was killed and she herself was badly wounded and left for dead.

- Colline Kiremera

415. According to a Hutu witness, on Colline Kiremera, 26 kilometers from the provincial capital on the main highway, Tutsis were massacred on the evening of Thursday, 21 October. A Hutu saved some by hiding them in a schoolhouse.

- Colline Gakere

416. According to Tutsi survivors from Colline Gakere, 28 kilometers from the provincial capital on the main highway, a large number of Tutsis that had congregated in the compound of a Tutsi named Kinunda were attacked on Thursday evening, but managed to repel the attack. Next morning they were surrounded by a large number of armed Hutus who killed all but a few who managed to escape.

- Colline Kiyange

417. On Colline Kiyange, 30 kilometers distant from the provincial capital on the main highway, according to a Tutsi witness, Tutsis were attacked on Thursday evening. The killing went on Friday morning, until the military arrived in midmorning.

- Colline Masoro

418. On Colline Masoro, to the south of Colline Kiyange, two kilometers from the asphalted road, according to a Hutu witness, the massacre of Tutsis began on Thursday evening, and went on the following days, since the military did not leave the main road.

E. Commune of Mwumba

a) Description of the commune

419. The Commune of Mwumba borders on the north with Rwanda, across the River Kanyaru, on the east with the Province of Kayanza, on the south with the Commune of Ngozi, and on the west with the Commune of Nyamurenza. The Chef-lieu is on Colline Buye, some eight kilometers from the city of Ngozi by an unsurfaced road. The Tutsi population of the commune is concentrated in two camps for displaced persons, one near the Chef-lieu and the other in Vyegwa, some three kilometers away in the direction of the city of Ngozi.

b) Claims and reports

420. According to the FIDH report, Tutsis in the commune were gathered and killed. On half of the collines alone, 712 Tutsis were killed. FRODEBU representatives came twice from the provincial capital, in the morning to have the roads blocked and in the afternoon, to order the capture of Tutsis. Thirty Tutsis were gathered in Kiziba and killed. Many Tutsis were killed and thrown into the River Kanyaru. UPRONA Hutus who had also been captured were freed unharmed. At Vyegwa, 48 bodies were found, on Colline Rwabiriro. On Colline Rwabiriro, Tutsis were killed in front of the primary school. In some cases, Hutus helped Tutsis to escape. On some collines, no Tutsis were killed.

421. The soldiers arrived in the commune on Friday, 22 October, and on the following day. At Kiziba, they gathered Hutu men, women and children and killed them. At Mushitsi, a mass grave was filled with their victims. 160 corpses were found at Vyegwa. Twas participated in the killing of Hutus.

422. According to an account from a Tutsi association, in Zone Mwumba, fifty Tutsis were killed on Colline Bakenke. Tutsis were gathered and killed at a school on Colline Karungura and at a "centre de négoce" at Kiziba. Fleeing Tutsis were gathered in a house in Vyegwa and killed.

c) Facts according to testimony

- Colline Buye

423. According to Hutu and Tutsi witnesses, on Colline Buye, where the Chef-lieu is located, the roads were blocked on the morning of Thursday, 21 October. In the afternoon, Hutus led by local FRODEBU functionaries and leaders began to attack the Tutsis and UPRONA Hutus. Some were locked up at the commune, but in the evening, after some were taken out, presumably to be killed, the others broke out. Some managed to flee in the darkness.

424. As the Hutus started to attack Tutsis around the Chef-lieu, many attempted to flee crosscountry to the provincial capital to the south, down the hill and across the flat valley of the River Nkaka.

425. Many were captured in the valley and brought to the house of a Tutsi, Nazaire Nsabiyimana, who was away in these days, which is located some 1.5 kilometers from the road to the provincial capital. There, they were locked up together with other Tutsis from the vicinity that had already been captured.

426. On the morning of the next day, the captives were killed. Their bodies were thrown in nearby ditches and latrines and are reported to be still there. Some FRODEBU Hutus who had been also captured were not killed.

- Colline Gitasi

427. Colline Gitasi borders the unsurfaced road from the provincial capital to the Chef-lieu. According to the testimony of Hutu, Tutsi and Twa witnesses, at Vyegwa, on this road, where there are some houses and a goat breeding station, the Hutus had a meeting on the morning of Thursday, led by the local FRODEBU authorities and leaders. After this meeting, they started felling trees and cutting bridges to block all roads.

428. Later that day, the Hutus started gathering Tutsi hostages from the surrounding area and gathering them at Vyegwa, from where they took them to the offices at Zone Mwumba. There, they were later killed, as reported below.

429. A Tutsi witness stated that, on a higher part of the colline, Tutsis were attacked by Hutus on that same day. She was hit on the head with a hammer and left for dead.

- Colline Mwumba

430. The offices of the Zone Mwumba (not to be confused with the Chef-lieu, which is on Colline Buye) are located on Colline Mwumba, some 12 kilometers from the city of Ngozi.

431. According to Hutu, Tutsi and Twa witnesses, on the morning of Thursday, 21 October, Hutus led by the local FRODEBU authorities and party leaders started cutting the roads by felling trees and destroying bridges. Around noon, they started rounding up the Tutsis and UPRONA Hutus and Twas and bringing them to the zone offices, where they were locked up in a building that served as a jail. Around 9 p.m., they called out two brothers and killed them. They called others out, but they refused to come out. They then threw stones inside the building. Some managed to break out. Many were killed. The bodies are reported to be buried next to the "cachot".

432. Several witnesses who claimed to have escaped from the cachot, while agreeing on these facts, contradicted each other in many aspects.

433. The soldiers arrived on Friday morning. According to a Hutu witness, they shot at the Hutus indiscriminately, killing many.

- Colline Nzove

434. A "centre de négoce" at Kiziba is located on Colline Nzove, some 6 kilometers away from the Chef-lieu of the Commune Mwumba, and about 15 kilometers from the city of Ngozi. It consists of some

30 houses built around a central marketplace and slaughterhouse. The houses, all of which are now in ruins (except for one that was recently rebuilt) were shops and administrative offices.

435. According to Hutu, Tutsi and Twa witnesses, on Thursday, 21 October, after hearing on the Rwandese radio that President Ndadaye had been taken by the military, Hutu farmers, led by the local FRODEBU functionaries and party leaders, cut trees to bar the roads and gathered the Tutsis, including Rwandese refugees, from the surrounding Collines Nzove, Muremera and Gatsinda, pillaged their property, and locked them up in a house called "Maison de Société des Maraîchers".

436. Around 8 p.m., they began to kill them. They took them out, tied by threes, killed them and threw the bodies in adjoining ditches and latrines. The bodies are reported to be still there. The killing went on until 3 a.m., on Friday. Some escaped. A witness stated that he bribed a Hutu to release him. Two others stated that they were left for dead, unconscious, in a ditch and that they recovered consciousness around 2 a.m., on Friday, when it started raining. The Administrateur communal of Mwumba is reported to have passed through on his motorcycle, on his way to Rwanda, in the evening before the killings took place. It was raining. He is reported by a Twa witness to have pleaded in vain for the release of the Rwandese.

437. According to Hutu and Twa witnesses, the soldiers arrived the following Saturday. The Hutu men had fled to Rwanda. The soldiers gathered the remaining Hutu old men and women, as well as the Twa, and offered them beer in Mbatari's Bar. They then took the Hutus to the shop of a Hutu named Mudagi, who had fled. They then massacred them.

- Colline Karungura

438. According to Tutsi witnesses, on Thursday afternoon, Tutsis from Colline Gakenke were taken by Hutus, led by local FRODEBU authorities and party leaders, to a schoolhouse on Colline Karungura. They were tied up and killed around 9 p.m. Their bodies are reported to be buried in the latrine.

439. According to Tutsi and Hutu witnesses, Tutsis from the Hima clan gathered together and succeeded in defending themselves from attacking Hutus.

- Collines Cahi and Gatsinda

440. Tutsi witnesses from Collines Cahi and Gatsinda, located in the northern part of the commune, stated that they had been captured in their homes in the afternoon of Thursday, 21 October, by FRODEBU Hutus, gathered in groups with other captive Tutsis, and taken to the River Kanyaru, bordering on Rwanda, to be killed in the evening. All witnesses stated that, while many were killed, they themselves had been helped to escape by Hutus. A Hutu witness confirmed that Tutsis had been killed at the River Kanyaru.

F. Commune of Ruhororo

a) Description of the commune

441. The Commune of Ruhororo borders on the north with the communes of Ngozi, Gashikanwa and Tangara, on the southeast with the Province of Kayanza, on the south with the Province of Gitega and on the southwest with the Province of Karuzi. Its Chef-lieu is in the south of the commune, 25 kilometers from the city of Ngozi by a good unsurfaced road that leads to Gitega.

b) Claims and reports

442. According to an account from a Tutsi association, the Administrateur communal of Ruhororo had Tutsis captured and gathered to be killed.

443. According to a report reflecting FRODEBU views, on Friday, 22 October, soldiers accompanied by Tutsi civilians captured Hutus on Collines Ntiba and Gitwe. They killed some 15, plus others along the way. The next day, they killed eight Hutus on Colline Banda. On Sunday, they killed 26 people on Colline Taba. About ten Hutus were killed at Gisha on 7 November.

c) Facts according to testimony

- Colline Rwamiko

Chef-lieu

444. According to Tutsi witnesses, a FRODEBU leader from Ngozi is reported to have arrived in a pick-up truck at the Chef-lieu in the early afternoon of Thursday, 21 October, and conferred with the Administrateur communal. Shortly afterwards, FRODEBU Hutus felled trees to cut the roads. Tutsis were gathered from the surrounding collines and held in the administrative building. The FRODEBU leader admitted having transported Tutsis to the Chef-lieu, but said it was for their protection. In the evening, the captive Tutsis were taken to the Ruvubu River, some 500 meters away and killed. Some UPRONA Hutus who had also been captured were not killed.

445. The military arrived at the Chef-lieu in the afternoon of the next day, after clearing the road of felled trees with a tractor. They found dead and wounded Tutsis all along the road.

446. According to Hutu witnesses, they fired indiscriminately at Hutus along the way and at the Chef-lieu, killing many.

447. A Hutu witness stated that on Thursday, 21 October, and the following day, the military went on killing Hutus of both sexes and all ages on the collines away from the main road, among them Cagura, Kabuye and the collines of Zone Mubanga to the north.

- Colline Bucamihigo

448. According to a Hutu witness, Tutsi males on Colline Bucamihigo were gathered on Thursday, by Hutus led by a FRODEBU leader and taken to the Chef-lieu, where they were later killed.

449. According to the same witness, soldiers killed 41 Hutus on the colline on the following day.

- Colline Kabuye

450. Colline Kabuye is some four kilometers from the Chef-lieu. According to a Tutsi witness, Tutsi males, among them the teachers at the school, were captured and taken away by Hutus on Thursday, 21 October.

451. According to a Hutu witness, the military killed many Hutu men, women and children on the colline in the following days.

G. Commune of Tangara

a) Description of the commune

452. The Commune of Tangara borders on the north with the Commune of Kiremba, on the west with the Communes of Gashikanwe and Ruhororo, on the south with the Province of Karuzi and on the west with the Province of Muyinga. It is not crossed or bordered by any main road. The Chef-lieu is at Musenyi, connected by 12 kilometers of secondary unsurfaced road, through the Commune of Kiremba, to the asphalted road at a point 30 kilometers distant from the city of Ngozi.

b) Claims and reports

453. According to the FIDH report, few massacres took place in the commune, and they were the work of people from outside the commune. A group of Hutus from Commune Kiremba killed thirty Tutsis; Hutus from Commune Ruhororo killed eight Tutsis on Colline Nyagesebeyi on Saturday, 23 October; and Hutus from the Province of Karuzi killed some 50 Tutsis on the Collines Ruyogoro, Gikingo and Murumba the following Wednesday.

454. On Saturday, 23 October, the soldiers killed 18 Hutus on Colline Nyagesebeyi. On the following Monday, they attacked the Collines Mugirampeke, Gasekanya and Bomba, killing 58 people.

455. According to an account from a Tutsi association, in Commune Tangara killers came from neighboring communes but, in general, few Tutsi were killed due to the efforts of the Administrateur communal.

c) Facts according to testimony

456. In contrast with all surrounding communes, no Tutsis were killed in October 1993 in the Commune of Tangara, except in some collines bordering on other communes or provinces.

- Chef-lieu

457. On 21 October, the Administrateur communal, a FRODEBU Tutsi (now in jail in Ngozi), having heard of the coup through Radio Rwanda and unable to communicate with the provincial capital, went around the commune on a motorcycle on Thursday, 21 October, asking people to remain calm. No roads were cut, no hostages were taken and no one was killed on that day. On Friday, Tutsis who had escaped the widespread massacres in the Commune of Ruhororo began to arrive at Musenyi. The military arrived on Friday evening.

- Collines Bomba, Mugirampeke, Muramba and Ruyogoro.

458. According to Tutsi witnesses, on Friday, 22 October, and on the two following days, Tutsi males of all ages were killed on the Collines of Bomba, Mugirampeke, Muramba and Ruyogoro, all bordering the Province of Karuzi, at the instigation of Hutus coming from that province, in which widespread massacres of Tutsis had taken place. Tutsi women were prevented from leaving.

459. The soldiers were unable to reach those collines. The arrival of armed Hutus from Karuzi on Colline Bomba was confirmed by a Hutu witness.

- Colline Butezi

460. On the colline Butezi, bordering on Commune Kiremba, the Tutsi males were killed on Saturday. Tutsi women were also prevented from leaving.

- Colline Nyagasebeyi

461. According to a Hutu witness, the military shot indiscriminately at Hutus on Saturday, 23 October, near the border with Commune Ruhororo.

462. With the exception of the collines mentioned, and some other outlying collines, Tutsis and Hutus went on living side by side on the collines.

X. ANALYSIS OF TESTIMONY

463. While, as has been stated above, the Commission's investigation was restricted by circumstances and the reliability of witnesses was questionable, the mass of testimony revealed certain patterns to the Commission and allowed it to reach some conclusions.

464. According not only to the testimony of witnesses from both ethnic groups, but also to all reports, it is an established fact that, as soon as the news of the coup reached the interior, all roads were barred throughout most of the country by the felling of trees and the cutting of bridges. Even some local authorities of the time, now in prison, testified to having received orders from their superiors to put the population to do this work. This activity, as far as the Commission could determine, had no precedent in Burundi.

465. In most of the communes investigated the barring of the roads was shortly followed, in places within the reach of Hutu Government or FRODEBU authorities at the commune level, by the capture of all adult Tutsi males and, in some cases, of UPRONA Hutus, and their concentration in specific places where they were held as hostages.

466. The killing of these hostages began for the most part after it was learned, mostly through the Rwandese radio, that President Ndadaye had been killed. It was carried out in some places on the evening of Thursday 21 October, while in others it was postponed until daylight the next day. Few of the UPRONA Hutu hostages were killed.

467. In places where hostages were killed, the killing for the most part soon extended to all Tutsi women and children, as well as to the ransacking and burning of Tutsi homes. The massacre of Tutsis of both sexes and all ages then spread out in widening circles from these places. In some places the lives of Tutsi women was spared, although they were often raped or kept captive.

468. The soldiers and gendarmes set out from their bases on Thursday, 21 October, along main roads, laboriously clearing them of felled trees and setting up emergency bridges. As they reached places where massacres of Tutsis had taken place, they rescued survivors and for the most part engaged in indiscriminate killing of Hutus, often aided by the survivors themselves. They went on to clear secondary roads, a task which took them several days, carrying on with the rescue of Tutsis and the indiscriminate repression of Hutus. Some collines were never reached by the soldiers.

469. As the military spread out from points on the main roads, many Hutus fled to still inaccessible collines. The killers among them spread the massacre of Tutsis to collines that had not yet been affected by the violence, so that during Friday, 22 October, and the following days, both the killing of Tutsis by Hutus and the killing of Hutus by the soldiers spread out in two simultaneous, widening circles.

470. Practically all testimonies coincide in that, in the communes investigated, Hutus and Tutsis were living peacefully together side by side in the collines before 21 October, even though the electoral campaign and the replacement of almost all local UPRONA authorities by members of the FRODEBU had generated some ethnic tension. Social relations had been normal and intermarriage frequent. A considerable proportion of Tutsi survivors testified that they owed their lives to Hutu relatives, neighbors or friends who protected them, often at the risk of their own lives.

471. While many Hutu witnesses made reference to the bloody persecution of Hutus in 1972, none accused their Tutsi neighbors of having personally participated in these acts. The persecution and the political suppression of Hutus was the work of the military dictatorships, in which the local Tutsi farmers as such did not play a significant role.

472. While it is undeniable that Hutus constitute a social, economic and educational underclass, the differences in status, wealth and education between Tutsi and Hutu subsistence farmers on the same colline were not considerable.

473. These considerations lead the Commission to conclude that the wholesale massacre of Tutsi men, women and children in the collines throughout the country could not be imputed to a simultaneous spontaneous reaction of the mass of Hutu farmers against their neighbors. The fact, established by evidence, that many simple Hutu farmers did take part in the massacres can only be attributed to the incitation and example of their leaders, whose presence and activity wherever such massacres took place is overwhelmingly established by the evidence.

474. The question arises of how some of these normally peaceful Hutu farmers could be led to take part in the massacre of their Tutsi neighbors. The Commission believes that an important motivating factor was hunger for land.

475. It cannot be overemphasized that Burundi is the most overpopulated country in Africa, and sustains an annual population growth rate of over 2.5 percent. Over 90 percent of the population derives its sole subsistence from the land. Families live on their minuscule plots. As the numerous children grow, marry and in turn have children, the family plot can no longer support them. There are practically no opportunities for work outside farming. Almost every inch of arable land is intensively cultivated and there is no land available for settling. Opportunities for emigration are almost non-existent. In the northern half of the country, where almost all of the massacres took place, former pasture land has almost completely come under cultivation, so that Tutsis, for the most part, were also farmers. Even though some Tutsis and Hutus still kept some cattle, it was mostly for status purposes.

476. The immense pressure resulting from this state of affairs could create a powerful temptation in desperately poor farmers to appropriate the belongings of their neighbors and take over their plots of land. This temptation could be exploited by their leaders. It can be noted in this connection that the pillaging of Tutsi property began almost everywhere as the hostages were being captured, before killings had taken place.

477. As to what could have inspired the leaders of these massacres down to the local level, the Commission believes that account should be taken of the Rwanda example, ever present in the minds of Burundians, both Hutu and Tutsi. The Hutu regime in Rwanda, established since independence and still in power at the time of the events in Burundi, had carried out several massacres of Tutsis. The attitude of Rwandese Hutus in power regarding Tutsis was to be tragically brought before world opinion in the genocide that was to take place the following year, and that has been found to have been planned in advance. Leaders of FRODEBU at all levels, including the founders, had spent years of exile in Rwanda after 1972. FRODEBU received strong support since its creation from the Rwandese President and his party. All this could not fail to affect Hutu FRODEBU leaders down to the local level.

478. A great mass of testimony and other evidence points to certain Hutu FRODEBU functionaries and leaders up to commune level as instigators of the massacre of Tutsis in all the places investigated by the Commission where such massacres took place. As to whether they acted of their own initiative or were obeying orders or a preestablished plan, no conclusion is justified by the evidence at hand. There is no direct evidence to support either conclusion, and the indirect evidence can be construed in either sense. While, on the one hand, it can be taken to indicate that local leaders acted on orders previously received from above, it is not inconceivable, on the other hand, that those leaders, having learned, after a day of indescribable stress, that President Ndadaye had been killed and believing their Government irretrievably lost, could have proceeded, on their own initiative, in different parts of the country, to kill the Tutsi hostages. Once the hostages had been killed, it was a short step to the wholesale massacre of women and children.

479. The same cannot be said regarding the acts of hostage taking. Such acts were unprecedented in Burundi, or even in Rwanda, as far as the Commission could determine. They took place simultaneously in places where there were no means of communication. They were uniformly directed against all Tutsi men and youths, regardless of their political affiliation. They took place shortly after news of the military coup and the President's captivity was learned by local FRODEBU functionaries and leaders, and before they could know if the coup had succeeded or whether the President was still alive. It defies belief that such acts could be a simultaneous, spontaneous local invention.

480. It is moreover impossible to find at the merely local level a coherent purpose for the act of hostage taking. Hostages are, by definition, taken in order to pressure an adversary into a given conduct. A local leader had no one to negotiate with. Stopping the military coup or liberating President Ndadaye could only be negotiated in Bujumbura. To this end only widespread, simultaneous hostage taking throughout the country could be a base for negotiation.

481. Where the massacre of Tutsis took place, it was not merely a hostile act by one political or ethnic group against another, but an effort to completely destroy the Tutsi ethnic group. Tutsis were not simply killed in a spurt of violence, but systematically hunted. That, in some instances, Tutsi women were allowed to survive can be explained by the fact that, in Burundi, an ethnic group cannot be perpetuated by women, since all children are born into their father's ethnic group. In some instances, Hutus were taken as hostages along with the Tutsis, but it was only Hutus who were prominently affiliated with UPRONA, while in the case of Tutsis the political affiliation was irrelevant. Most of the UPRONA Hutus, although severely mistreated, were not killed. The leaders who had begun the massacres in one place went on spreading them to as yet untouched places even as they fled.

482. Under Article II of the Convention on the Prevention and Punishment of the Crime of Genocide, the act of killing members of an ethnic group with the intent to destroy it in whole or in part constitutes genocide. The fact that Burundi has not ratified this Convention is irrelevant, since its provisions have become part of international customary law, and are jus cogens.

XI. CONCLUSIONS

483. The Commission considers that evidence is sufficient to establish that acts of genocide against the Tutsi minority took place in Burundi on 21 October 1993, and the days following, at the instigation and with the participation of certain Hutu FRODEBU functionaries and leaders up to commune level.

484. The Commission considers that the evidence is insufficient to determine whether or not these acts of genocide were planned or ordered by leaders at a higher level.

485. The Commission considers that, although it did not obtain, nor could it under the circumstances be expected to obtain, direct testimonial or documentary evidence to support it, circumstantial evidence is sufficient to warrant the conclusion that some highly placed members of FRODEBU had planned in advance a response to the very real eventuality of a coup by the Army, that such response included, together with blocking roads and arming Hutus, the taking of male Tutsi adults and youths as hostages, and that this plan had been made known in advance to certain local FRODEBU members in positions of leadership down to the level of the communes.

486. The Commission considers that the evidence shows that indiscriminate killing of Hutu men, women and children was carried out by members of the Burundian Army and Gendarmerie, and by Tutsi civilians. Although no evidence was obtained to indicate that the repression was centrally planned or ordered, it is an established fact that no effort was made by the military authorities at any level of command to prevent, stop, investigate or punish such acts. The Commission considers that this failure to act engages the responsibility of those military authorities with regard to such acts.

487. The Commission considers that, with the evidence at hand, it is not in a position to identify by name the persons that should be brought to justice for the acts to which these conclusions refer.

PART V: RECOMMENDATIONS

488. To make recommendations as to how to effect national reconciliation in Burundi and reestablish peace and security is, if not beyond the mandate, certainly beyond the means of the Commission. The Commission can hardly be expected to come up with miraculous solutions where the intensive, ongoing efforts by the United Nations and other members of the international community have so far shown no results in preventing, much less in redressing, the constant deterioration of the situation in Burundi.

489. The Commission, having gained a certain familiarity with conditions in the interior of the country, cannot fail to point out, however, that reported international efforts appear to concentrate on the redistribution of power among the political and military elite in Bujumbura, while little is heard of the basic problem of resettling the tens of thousands of internally displaced Tutsis and exiled Hutus, of restraining population growth, of creating opportunities for work outside of agriculture and of increasing agricultural yields, all of which would require considerable outside assistance.

I. IMPUNITY

490. Impunity has, without any doubt, been an important contributing factor in the aggravation of the ongoing crisis. But, while at the outset it was one of the causes of the present situation, it has now become

an effect. To make the suppression of impunity a precondition for the solution of the crisis is completely unrealistic and can serve only to give excuses to those who are unwilling to take the necessary actions.

491. Impunity can only be suppressed through a fair and effective administration of justice. The Commission can find no way in which such an administration of justice can be established while the present situation of the country has not been brought under a minimum of control.

492. It is a fact that the Burundian judiciary and police are overwhelmingly unbalanced in favor of Tutsis, as is the entire legal profession. It is a fact that Burundian criminal law and criminal procedures need to be reformed. It is a fact that judges and prosecutors lack even the most essential material resources to accomplish their task. But all these facts pale before the central fact of overriding ethnic confrontation and total insecurity throughout the country. No amount of reforms or resources can have any effect as long as every citizen faces the ever present and very real danger of death at the hands of members of either ethnic group, and as long as every citizen is convinced that his own ethnic group is under attack by people who have repeatedly shown that they do not hesitate to commit mass murder. It is clearly impossible for any system of justice to function under such conditions.

493. The Commission believes that, whenever conditions in the country permit effective reforms to be made, the most important of these would be to establish a reasonable ethnic balance at all levels regarding judges, prosecutors and judiciary police. This would require that the appointment and removal of these functionaries be entrusted to an impartial, independent, non political and ethnically balanced body with the necessary power and public credibility. The judicial police, at present an almost non existent body, should be given the necessary manpower and resources and freed from ethnic or political control. It should be a purely civilian body, with no links to the Army or Gendarmerie. The present practice of indefinite detention without formal accusation or prosecution must be abolished.

494. It must be borne in mind that, among the present adult population of Burundi, tens, if not hundreds, of thousands of individuals from both ethnic groups have at one time or another committed homicide. To prosecute every one of them is clearly beyond any system of justice. If those who bear the main responsibility for these crimes are ever to be brought to justice, judges or prosecutors must be empowered to offer immunity or reduced sentences, in exchange for cooperation, to those who were merely ordered or led.

495. The establishment of an impartial and effective system of justice would require considerable international assistance in the form of training and financial support. A transitional period could be envisaged during which, to establish public credibility, foreign observers, recruited from the judiciary of other francophone African nations, would sit in the bi-ethnic courts and, if necessary, mediate between the judges.

II. GENOCIDE

496. Having concluded that acts of genocide against the Tutsi minority were committed in Burundi in October 1993, the Commission believes that international jurisdiction should be asserted with respect to these acts.

497. The Commission believes, however, that it is not possible to carry out an adequate international investigation of these acts while the present situation persists in Burundi.

498. If it is decided to assert international jurisdiction regarding acts of genocide in Burundi once a reasonable level of order and security and ethnic harmony are reestablished, the investigation should not be limited to acts committed in October 1993, but should also extend to other acts committed in the past, in order to determine whether they also constituted acts of genocide and, if such is found to be the case, to identify those responsible and bring them to justice. Particular attention should be given to the events that took place in 1972 when, according to all reports, a systematic effort was made to exterminate all educated Hutus. No one was ever prosecuted for these acts.

499. Any international body that is given the responsibility of investigating genocide in Burundi must be given sufficient resources and powers to inspect files and records, to command the disclosure of documents, to make witnesses appear before it, to ensure the punishment of perjury, to ensure the safety of witnesses and to guarantee immunity or reduced sentences to those willing to cooperate.

III. OTHER CRIMES

500. Regarding the assassination of President Ndadaye, the taking of hostages, and the indiscriminate repression of civilians, all of which fall within the internal jurisdiction of Burundi, the Commission considers it evident that there is no hope of fair and effective investigation or prosecution by the present Burundian judiciary, or while the very persons whose conduct is to be investigated share the unrestricted power of life and death throughout the country from high positions in the Government, in the Army, and in the armed rebellion. Such an investigation would require an independent and credible judicial body, endowed with all necessary powers, in conditions of reasonable order and security.

ANNEX 1

Second revised edition, 13 April 1996

RULES OF PROCEDURE

1. The members of the Commission are required to make the following solemn declaration: "I solemnly undertake to perform my duties and exercise my powers honourably, faithfully, impartially and conscientiously" (Article 20 of the Statute and Article 5 of the Rules of Procedure of the International Court of Justice). Should a judge be replaced for any reason, the new member shall make the same declaration before the President or his deputy.

2. The Commission shall, in the manner it deems appropriate, invite the Government, members of the Government, any political or apolitical, governmental or non-governmental organization, any association, group, or other body, to produce within a period to be determined by the Commission any documentation or communication that they may wish to transmit to the Commission within the scope of its mandate.

3. The Commission shall announce that it is prepared to examine requests from the Government and other interested organizations for any person likely to contribute to the mandate of the Commission to be heard. In such cases, the person's name and position and a brief description of the events about which he or she wishes to testify should reach the Commission within a period of four (4) days.

4. The Commission shall give notification in writing, or by other appropriate means, within a period of three (3) days, to any witness whom it deems necessary to hear within the scope of its mandate. Such notification shall specify the date and time at which the Commission will receive the testimony.

5. The Commission may entertain a request for postponement, for reasons considered sufficient, within any period it judges to be reasonable.

6. The Commission shall give notification in writing, within a period of four (4) days, that it will hear the testimony of the authorities and Government officials who may have knowledge of the events covered by its mandate. The absence of any witness, or his or her refusal to testify, shall be entered in the minutes of the Commission and mentioned in the case file.

7. The proceedings of the Commission shall be held in private, unless it decides otherwise.

8. The Commission may authorize representatives of the Government and of the organizations mentioned in paragraph 2 to attend specific hearings.

9. All information, evidence and testimony shall be treated in strict confidence within the scope of the mandate of the Commission.

10. The Commission shall give witnesses all reasonable latitude to provide full testimony on any matter considered relevant to the mandate of the Commission.

11. Any person appearing before the Commission shall have the right to be assisted by a lawyer, if he or she so chooses.

12. Each witness shall, before giving evidence, take the following oath: "I swear that I will speak the truth, the whole truth, and nothing but the truth." He or she shall then state his or her name, address, civil status, and official position (if any).

13. The Commission shall permit the witness to make any statement he or she considers necessary. However, the Commission may end the statement at any time if it considers it to be inappropriate or irrelevant to its mandate.

14. Any member of the Commission may at any time question the witness.

15. The Commission reserves the right to recall witnesses if necessary.

16. The Commission shall meet with five members present. However, it may meet with a minimum of three members present. Decisions of the Commission shall be made by an absolute majority of its members.

17. In case of absence or incapacity of the President, the Commission shall designate an acting president.

18. 2/ Testimony may be heard by one or more members of the Commission, according to circumstances.

19. In exceptional circumstances, the Commission may designate two members of its staff to hear testimony or gather other evidence. In such cases, the rules to be followed are set out in appendix I.

20. Should a report of the Commission not express the unanimous opinion of its members, any of the latter may append a statement of his separate opinion.

2/ Version adopted unanimously by the Commission, by amendment, at its meeting on 13 April 1996.

APPENDIX I

Pursuant to article 19 of the Rules of Procedure of the Commission, the two members of staff designated to gather evidence, including testimony, required by the Commission shall comply with the following rules:

1. Each designated member of staff shall, in addition to the oath required of staff members, take the oath of the Commissioner for Oaths, as follows: "I solemnly swear that I will perform my duties and exercise my powers honourably, faithfully, impartially and conscientiously."

2. The Commissioners for Oaths who gather evidence shall:

(a) In the case of oral testimony, make a tape recording of the testimony, including any preliminary remarks and concluding remarks;

(b) In the case of a written statement, take possession of the entire document and place it in a sealed envelope;

(c) In the case of photographs or other exhibits, take possession of the items and record in the minutes the nature and number of the items and a brief description of each item.

3. Exhibits, written statements, documents or other items gathered by special mandate from the Commission shall in all cases be handed as soon as practically possible, together with the original of the minutes, to the Executive Secretary of the Commission, who shall make such use of them as may be directed by the Commission.

MINUTES OF A HEARING

Present: (1)

(2)

(3)

(4)

(5)

Date:

Hearing began at:

Hearing ended at:

Registrar:

Interpreters: (1)

(2)

Name of the witness:

Age:

Address:

Official position (if any):

Record below: (1) Any order of the Commission;
(2) Any exhibit, document or other item of evidence, with its serial number and description;
(3) Any other comment, if expressly requested by the Commission or one of its members.

Signature of the Registrar

Form No. 1

MINUTES

(Commissioners for Oaths)

Commissioners: Last name _____ First name _____

Last name _____ First name _____

Last name _____ First name _____

Last name _____ First name _____

Last name _____ First name _____

Title or position within the Commission:

Time of departure:

Time of return:

Place visited:

Duration of interview:

Name of informant (witness):

Status (or official position):

Address (if possible):

Age:

REMARKS:

Assessment of the witness:

Description of the place visited:

If interview was discontinued, give reason and, if possible, identification:

Any exhibit, photograph or other item, with its serial number, should be enclosed with these documents and accompanying evidence.

Form No. 2

ANNEX 2

CONSTITUTION OF THE REPUBLIC OF BURUNDI

March 1992 version

Section IV

THE EXECUTIVE POWER

1. The President of the Republic

Article 85

In the absence or temporary impediment of the President of the Republic, the Prime Minister shall manage the affairs of State.

In case of vacancy by reason of resignation, death or any other cause terminating definitively the functions of the President, the remainder of the term of office shall be exercised by the President of the National Assembly or by the Government, if the President of the National Assembly is in turn impeded from exercising his duties.

The vacancy shall be confirmed by the Constitutional Court upon notification by the Government.

The interim authority may not form a new Government.